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**FOREIGN VISITORS WHO VIOLATE THE TERMS  
OF THEIR VISAS BY REMAINING IN THE  
UNITED STATES INDEFINITELY**

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Foreign Visitors Who Violate the Te...

**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
IMMIGRATION AND CLAIMS  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

FEBRUARY 24, 1995

**Serial No. 2**



Printed for the use of the Committee on the Judiciary

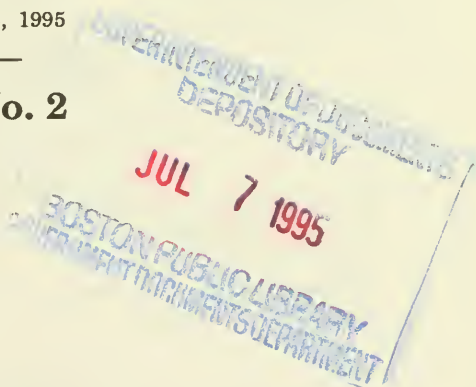
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# FOREIGN VISITORS WHO VIOLATE THE TERMS OF THEIR VISAS BY REMAINING IN THE UNITED STATES INDEFINITELY

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FRIDAY, FEBRUARY 24, 1995

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON IMMIGRATION AND CLAIMS,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 9:39 a.m., in room 2237, Rayburn House Office Building, Hon. Lamar Smith (chairman of the subcommittee) presiding.

Present: Representatives Lamar Smith, Elton Gallegly, Carlos J. Moorhead, Bill McCollum, Fred Heineman, Ed Bryant of Tennessee, and John Bryant of Texas.

Also present: Cordia A. Strom, counsel; Edward R. Grant, assistant counsel; George Fishman, assistant counsel; Judy Knott, executive assistant; and Paul Drolet, minority counsel.

## OPENING STATEMENT OF CHAIRMAN SMITH

Mr. SMITH. The Subcommittee on Immigration and Claims will come to order, and I would like to welcome everyone here today to be a part of our first of two hearings on the subject of illegal immigration and border security. Next Friday we are going to focus on the subject of illegal entry across our land borders and through our airports. That hearing was originally scheduled for yesterday; then it was scheduled for this coming Monday, and now it is postponed to Friday because of a conflict with the full committee's markups.

Today we are going to focus on the different but I think equally important subject of the entry of visitors who come into this country, but overstay and, of course, are therefore illegal aliens. Each year the United States admits 500 million people—that is twice the population of the United States—as foreign visitors, workers and immigrants. About 10 percent, 55 million of those visitors come through our airports either as tourists or business visitors.

The INS estimates that about one-half of the illegal aliens in the United States have arrived on a visitor's visa and have overstayed. We will plumb this more deeply, but I think those figures are fuzzy and, at best, they are a guess; and I think we will be able to determine in a few minutes how those figures are arrived at.

The fact that approximately half of the illegal aliens are visa overstayers is not a new phenomenon, though we are just recently becoming aware of the extent of the problem.



Today, some of the subjects that we will be discussing are how do we arrive at the figure of visa overstayers, how do we deter them, how do we track them, and how do we apprehend them. As I say, this is half of the problem.

I would like to recognize now the ranking minority member, my friend from Texas, John Bryant, and then we will go on to our first panel.

Mr. BRYANT of Texas. Thank you, Mr. Chairman. I will not make extensive remarks.

I would like to thank Commissioner Jordan and Ms. Martin and Mr. Hill for the great work of your Commission. We look forward to trying to implement some of your work this year.

This is not an area to work in if your main interest in life is making friends, because all of the choices are tough ones. You have made some tough ones, and I appreciate your work and I look forward to your comments.

Mr. SMITH. Because Professor Jordan is actually in the middle of a Commission on Immigration Reform hearing and took a few minutes out, I might ask Members if they would have a brief opening statement; otherwise, we will move on and hear from Professor Jordan.

Any opening statements?

If not, Professor Jordan, before you begin, I would like to thank the State Department and the INS for letting us depart from protocol. Normally, they would be up first, but they appreciate your situation in the meeting next door, as I do; and we appreciate all the good work that you are doing.

You are the Chair of the Commission on Immigration Reform. You are accompanied by Robert Hill, a member of the Commission on Immigration Reform. And again, I consider you to be a special friend from Texas, and we appreciate your taking the time to be with us today. We would be happy to hear your remarks and we will go to questions.

**STATEMENT OF HON. BARBARA JORDAN, CHAIR, COMMISSION ON IMMIGRATION REFORM, ACCOMPANIED BY ROBERT HILL, COMMISSIONER, AND SUSAN MARTIN, EXECUTIVE DIRECTOR**

Ms. JORDAN. Thank you, Mr. Chairman. Seated to my immediate left is Susan Martin, the Executive Director of the Commission on Immigration Reform.

Mr. SMITH. I apologize for not introducing her. In my original witness list, she was not listed and I should have done that as well. Thank you.

Ms. JORDAN. Mr. Chairman and members of this subcommittee, I really do appreciate the opportunity to come here and tell you about the work of the Commission.

In our first interim report entitled "U.S. Immigration Policy: Restoring Credibility," presented September 30, 1994, we undertook to recommend a comprehensive strategy for restoring credibility to the immigration system. We began by setting forth principles. The Commission believes legal immigration has strengthened this country and continues to do so. We as a Commission denounce hostility toward immigrants as antithetical to the interests of this country



and our national interest. We cannot sustain ourselves as a nation if we condone divisiveness in our society.

But we are also a nation of laws. For our immigration policy to make sense, it is necessary to make distinctions between those who obey the law and those who violate the law. Therefore, we disagree with those who label our efforts to control illegal immigration as somehow inherently anti-immigrant. Unlawful immigration is unacceptable.

Many Americans believe that the Government cannot or will not manage immigration. Despite recent improvements in border management and other immigration enforcement, the continued entry of illegal aliens fuel this perception. Increasing frustration over the Nation's inability to control adequately illegal immigration undermines our first commitment to legal immigration.

The Commission believes that we must take immediate steps to uphold both our immigration tradition and our commitment to the rule of law.

This morning, I am going to briefly outline the seven-point strategy for reducing unlawful immigration to this country. I will also take this opportunity to brief you on the current work of the Commission.

First, the Commission recommends better border management. Far more can and should be done to meet the twin goals of border management while facilitating legal immigration—legal ones. We have to recognize both goals.

The Commission endorses prevention as a principal strategy for deterring illegal entries. We applaud the efforts, that have been quite innovative, of Silvestre Reyes with Operation Hold the Line in El Paso. Operation Hold the Line demonstrated that a strategic use of personnel and technology can combine at our land border, as it has for many years at our airports, to reduce unauthorized entry.

The Commission recommends a border crossing user fee to help facilitate legal entries. Many people who are authorized to cross the border legally simply tire of waiting in line and cross illegally. This situation occurs because we have too few inspectors, too few ports of entry, and too little infrastructure to handle the daily traffic across the border.

We believe that a carefully crafted user fee can help provide the resources needed to speed the process while still protecting the country from illegal entries.

Let me be clear: A border crossing fee should not go into the general Treasury. It should not go into the general INS or Customs fund. It should be used solely to facilitate the traffic flow through the land ports of entry to inspect and speed on their way as quickly as possible those who have proper authorization to enter, and to identify and deter those who do not.

Now, Mr. Chairman, as a fellow Texan, it took some convincing by the Commission for me to endorse a border fee. After analyzing the situation, however, I came to the conclusion that a border fee, properly applied, would benefit border towns like El Paso and Laredo which depend so much on cross-border trade. Such a fee would help fulfill the objectives of NAFTA. In fact, the Commission suggests negotiation with our NAFTA partners to develop a mutually

beneficial fee arrangement, perhaps a sharing of revenues to support improved inspections capacity at all three countries' ports of entry.

A second part of our strategy is worksite enforcement. You will hear testimony today about visa overstayers. You will hear that roughly half of the Nation's illegal alien problem results from visitors who entered here legally, but who do not leave when their time is up.

Now, let me tell you three simple words why that is: They get jobs.

We believe that employer sanctions can work, but only with a reliable system for verifying authorization to work. Employers want to obey the law, but they are caught between a rock and a hard place. The current system is based on documents. An employer must either accept documents knowing that they may be forged, and thus live with the vulnerability to employer sanctions for hiring someone presenting false identification, or in the alternative, an employer may choose to ask particular workers for more documentation, and that is discrimination.

The Commission has recommended a test of what we regard as the most promising option: electronic validation using a computerized registry based on the Social Security number. We are pleased with the prompt, bipartisan support that this highly visible recommendation has received, and we look forward to real results from the pilot projects before our final report in 1997.

Third in our recommendations for a comprehensive strategy is making eligibility for public benefits consistent with our immigration policy. Decisions about eligibility should support our immigration objectives. Accordingly, the Commission recommends against eligibility for illegal aliens except in most unusual circumstances.

The Commission recognizes that even with a narrowly construed eligibility for services, illegal immigration presents States and localities with fiscal concerns. Incarceration of criminal aliens, education and health care all pose financial dilemmas. The Commission agrees that the Federal Government should help alleviate these costs. The best way to do this is to reduce illegal immigration.

In addition, we believe that some financial reimbursement of costs to States and localities is justified, contingent on accurate data, appropriate cooperation of States and localities with enforcement of immigration laws, and a plan to ensure that funding will be reduced as levels of illegal immigration are reduced.

We recommend immediate reimbursement of criminal justice costs, because these conditions can now be met, but we urge further study of the costs of health care and education before impact aid is provided.

In contrast with our recommendations on illegal aliens, the Commission recommends that legal permit residents should continue to be eligible for safety net programs available to U.S. citizens. We recommend against any broad categorical denial of eligibility for public benefits based on alienage for those who obey our laws.

This is not to say that the Commission would have legal permit residents become public charges. We believe that the public charge provision should be strengthened to permit deportation of immi-

grants who make sustained use of public assistance during their first 5 years after entry. We also recommend that the affidavit of support be legally binding on sponsors. Let's put responsibility where it should rest, with those who petition for the admission of immigrants and who owe an obligation to the taxpayers of this country to ensure that their charges do not become public charges.

Let me add one more point about benefits eligibility since it is a topic under consideration by this Congress. I believe strongly that it is in the national interest for immigrants to become citizens for the right reasons, not the wrong ones. We want immigrants to be motivated to naturalize in order to vote, to be fully participating members of our polity, to become Americans. We don't want to motivate law-abiding aliens to naturalize just so that they can get food stamps, health care, job training or their homes tested for lead. Citizenship and naturalization should be more central to the process of immigration. There are many barriers to naturalizing in law and practice, and they should be removed. But it is a debasement of the concept of citizenship to make it the route to welfare.

Fourth, deportation is critical. Credibility in immigration policy can be summed up in one sentence: Those who should get in, get in; those who should be kept out are kept out; and those who should not be here will be required to leave. The top priorities for detention and removal, of course, are criminal aliens. But for the system to be credible, people actually have to be deported at the end of the process. The Commission will have additional recommendations on this crucial matter later this year.

Fifth, emergency management. Migration emergencies such as we have recently had with Haiti and Cuba do occur and we must be prepared for them. Again, we will have detailed recommendations on migration emergencies.

Sixth, reliable data. The current debate over the economic impact of immigration is marked by shaky statistics, flawed assumptions and an amazing range of contradictory conclusions from what ought to be commonly accepted methods. Rather than attempt to choose sides in this discussion, the Commission has asked the National Academy of Sciences to establish an expert panel that will analyze the methods used for evaluating immigration impacts and come to its own conclusions about the available data. We will share those interim results with you as we receive them.

Seventh, much as we support enhanced enforcement by this country, we must face the fact that unilateral action on the part of the United States will never be enough to stop illegal immigration. Immigrants come here illegally from source countries where conditions prevail that encourage or even compel them to leave. Attacking the causes of illegal migration is essential and will require international cooperation.

That is our seven-point strategy for dealing with illegal immigration in a comprehensive, systematic way. The Commission made all of these recommendations unanimously, by consensus. We are nine Commissioners, we are Republicans and Democrats, a diverse group. We are liberals and conservatives, strong ones and weak ones. We might have been expected to simply throw up our hands at the difficulty of the task Congress mandated for us. But we put



aside the rhetoric. We determined that we would look for answers and not excuses. Our work is not done.

Now, I will leave shortly, Mr. Chairman, as you know, to return to my colleagues around the corner who are engaged in this second day of consultations on employment and family-based immigration. The Commission is well along in its consideration of the national interest in legal immigration, of the qualities that we seek in immigrants, of the limits. We have a short-term and a long-term agenda. By June, we will issue recommendations for immediate actions which should be taken with regard to permanent and temporary legal immigration to the United States. At the same time, we are engaged in a systematic examination of what our immigration policy should be in the 21st century. The results of that analysis will be included in our final report to Congress in 1997.

Our first report represented a hard-won, bipartisan consensus on emotionally tough, intellectually complex and politically challenging issues. The issues we will be reporting on in June are equally difficult ones, politically and substantively. We ask that you give us a chance to try to arrive at a consensus on these tough issues before you act. See what we can come up with in terms of our recommendations.

And I will be glad to answer any questions that you or any other members of the committee may have.

[The prepared statement of Ms. Jordan follows:]

PREPARED STATEMENT OF HON. BARBARA JORDAN, CHAIR, COMMISSION ON  
IMMIGRATION REFORM

Mr. Chairman, members of the Subcommittee, thank you for this opportunity to report on the recommendations of the bipartisan Commission on Immigration Reform.

In our first Interim Report to Congress, *U.S. Immigration Policy: Restoring Credibility*, presented on September 30, 1994, this Commission undertook to recommend a comprehensive strategy for restoring credibility to our immigration system.

We began by setting forth principles. The Commission believes that legal immigration has strengthened the country and that it continues to do so. We as a Commission denounce hostility toward immigrants as antithetical to our traditions and our national interest. We cannot sustain ourselves as a nation if we condone such divisiveness in our society.

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land border, as it has for many years at our airports, to reduce unauthorized crossings.

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We believe that employer sanctions can work, but only with a reliable system for verifying authorization to work. Employers want to obey the law, but they are caught now between a rock and a hard place. The current system is based on documents. An employer must either accept those documents, knowing that they might be forged, and thus live with the vulnerability to employer sanctions for hiring someone presenting false identification. Or, an employer may choose to ask particular workers for more documentation, which is discrimination.

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I will be glad to answer any questions you may have.

Mr. SMITH. Professor Jordan, thank you for your testimony. Also again thank you for the work that you are doing as a member and as Chair of the Commission, and we do look forward to your recommendations.

As was referred to in your testimony today—and I might alert my fellow members of the subcommittee, because you can't be with us next Friday, we are going to be getting into both sides of the illegal immigration problem as a result of your testimony. And to that end, you mentioned specifically that you believe that employer sanctions work, but only with a reliable system for verifying authorization to work.



In my judgment, and I think we agree here, the only way you can end discrimination in the workplace, the only way you can ensure that jobs and benefits go to those who are entitled to them is through some form of a verification system. And I know that some people oppose that, and for their own good reasons, but it seems to me that in a high-tech age where in our pockets and purses we now carry, for instance, a driver's license, many times tamper-proof, and assorted credit cards, that we have arrived at a point where a verification system can be accepted and can be used and safeguards can be included to prevent an abuse of privacy.

So may I ask you to comment on the type of verification system that you have proposed and specifically how it relates to a card that everyone already has to have, which is the Social Security card.

And let me say also, that is a vote and we will need to leave in 5 minutes.

Ms. JORDAN. All right.

Mr. Chairman, this is a vital component of our recommendations. If we cannot have verification in the workplace of those who are authorized to work, it is useless to talk about credible immigration policy.

Our verification system, we hope, will be based on the Social Security number, which everyone has. It will remove the prospect of the employer being charged either with hiring someone with fraudulent documents or someone against whom he discriminates.

We have aggregated five, seven—how many test pilot programs—in the five States most impacted by immigration, we are going to test various methods of verification and monitor those tests very closely. We believe the most promising option is a card for data entry that is based on the Social Security number, once we get the data cleaned up in Social Security.

Mr. SMITH. Thank you.

One other question in regard to the Social Security idea. I have been told, and you mentioned it, that 13 States now have tamper-proof driver's licenses; and would it not be very similar technology that would be used in making a Social Security card tamper-proof as well?

Ms. JORDAN. It would be so, but let me let Susan Martin, our Executive Director, comment on that.

Ms. MARTIN. Yes, the Commission is aware of the progress that is being made in both the driver's license area and other forms of fraud-resistant documents. We have recommended that there be three tests of the computerized registry that we have recommended that, one, use these new driver's licenses, because many of them actually use the Social Security number as the identifier and may mean that we don't need to reissue a new Social Security number to everybody; the second possibility, to try to issue a new Social Security card and see what the cost, both in terms of resources but also in terms of time and intrusion into the public; and the third would be a pure telephone verification.

Mr. SMITH. We are going to have a subsequent hearing, but you are only talking about three or four bits of information that are required for the verification system?



Ms. MARTIN. The name, Social Security number, date of birth, and perhaps the mother's maiden name. Those are in the Social Security data base and could be combined with INS information for aliens as to their eligibility to work, to verify.

Mr. SMITH. Ms. Martin, thank you.

I am going to yield to the gentleman from Texas, Mr. Bryant, for the remainder of my time and then we will go vote.

Mr. BRYANT of Texas. Thank you.

Once again, the report, much of which we had read in advance is, I think, terrific. I am glad to see somebody else having to wrestle with these issues. These are tough ones. Verification is tough and continues to be tough, and I like what I have seen here.

I would like to deliver a 30-second editorial to the administration. You mentioned border crossing fees, and if—they may have gotten that idea from you all, but we warned them at the beginning of this year that that is not going to pass the Congress and that it was a very hostile idea. And I am a Democrat and I supported President Clinton. We Democrats thought he would listen to some good advice from his fellow party members on this. The advice is unanimous from Democrats and Republicans alike in our region and on the border. There ain't going to be a border crossing fee, and they ought to quit talking about it. I don't know who the hard-head is in the Clinton administration that put it in the budget, but it was a dumb idea to put it in there. We are not going to tax the economies of these cities up and down the border who have people in them that go back and forth across the border three and four times a day to do business. We are just not going to do it.

So I notice they have backed off and said, maybe we will have a local option border crossing fee, which is the most ridiculous—it is the only thing that could be more ridiculous than the border crossing fee in the first place. So I hope they will quit talking about it and back away from it, and next time, when we give you some advice, pay attention. I say that to the administration.

Professor Jordan, one thing you mentioned in here is something that I agreed with and that is that we ought not to encourage people to come here as legal aliens and just stay around and not really get involved in our country. I would be curious to know what we would think about some type of requirement that, except for people who are working for their governments or have some reason to maintain their citizenship back home, that we require people to be on a track to citizenship, and at some point they have to decide, you are going to come here because you love us, or you are just coming here to make money off of us and you are going to go back when you are old.

What do you think about that?

Ms. JORDAN. Congressman, I think people who care enough about this country to come here and stay ought to want to become citizens of this country. That is what I feel about that.

Now, why don't you go and vote?

Mr. SMITH. Can you stay with us until we return?

Ms. JORDAN. Yes, I will stay.

Mr. SMITH. Until that time, we will stand in recess.

[Recess.]

Mr. SMITH. The subcommittee will resume. We will pick up where we were.

And if the gentleman from North Carolina is ready, we will go to Mr. Heineman for his question. If you would like to—we will give you 5 minutes for questions.

Mr. HEINEMAN. Yes, Professor Jordan, I would like your opinion on the Border Patrol as it was—and I don't know how long you have been in your position, but as it appears that Border Patrol had been cut back—some people say significantly—has there been a difference in the problems that you have seen prior to Border Patrol being cut back and the way they are today?

Ms. JORDAN. Congressman, the only experience I have had with the Border Patrol was in going to view personally Operation Hold the Line, which the Border Patrol was engaged in enforcing at the El Paso border. Now, that entailed the deployment of more Border Patrol with just a discrete difference between them that has proved effective and needs to be enhanced. There is nothing about our recommendations which would tolerate or compliment reducing the Border Patrol. Their job is an important one and what we want to do is eliminate ineffectiveness. And let me call on my colleague, Bob Hill, to comment further on that.

Mr. HEINEMAN. I will wait for his presentation.

Mr. HILL. Congressman, as we understand it, the number of Border Patrol agents has been increasing steadily; and I think Susan has some direct figures about that. We don't presume to tell the Border Patrol what particular strategy they should be using in terms of detail. I mean, those are the folks that are on the line and have to put themselves in harm's way every day. However, we were very impressed with the strategy that was in place in El Paso, where they moved from an apprehension strategy to putting the resources up on the line in a prevention strategy.

Now, as we understand it, there has been some modification of that strategy now begun in place—in San Diego, called Operation Gatekeeper, and we would like very much to be able to monitor that to see what the results are and how that is going.

Mr. HEINEMAN. I yield back my time.

Mr. SMITH. I yield to the gentleman from California 5 minutes for his questions, Mr. Gallegly.

Mr. GALLEGLY. Thank you very much, Mr. Chairman.

And Professor Jordan, Ms. Martin, and Mr. Hill, thank you very much for being here this morning.

Professor Jordan, I would like to preface my remarks by saying how impressed I have been, watching your work in recent months. I think of all of the decisions the President has made in recent years I can say, without question, that I am more encouraged by yours than any of the others. And I mean that genuinely.

Ms. JORDAN. Thank you.

Mr. GALLEGLY. The testimony you have given here this morning, the report, is very encouraging. As a southern Californian who has been very involved in this issue for many years, when it was viewed by many as being very politically incorrect to even address the issue—and I do have the scar tissue to prove that—for the first time that I can remember, I think we have an opportunity to really address the issue of illegal immigration.

The fact that I believe that—not only has the American public but now the politicians have recognized that we truly have a problem. We may have different opinions on the resolution, but I think the first—the first method of solving a problem is recognizing you have one to start with. And I think that we have done that.

One of the concerns I have—and I am probably not as strident as my good friend Mr. Bryant from Texas on the issue of border crossing fees, but I must say that my assessment as it relates to that option is very similar. The cost, the fact that we are charging people that are legally going through the hoops rather than penalizing those that are not, I have a basic problem with that.

And the implementing—you couldn't very well have just border crossing fees and pick and choose where you would want to put them. You would have to make them universal, I would assume, at every entry into this country, whether it be on the Canadian border or the Mexican border; is that not true?

Ms. JORDAN. Land entry, border entry, yes.

Mr. GALLEGLY. The issue of sponsors, we hit briefly on that, and I don't know if in your hearings you have been able to ascertain whether or not the INS has had any success at all in holding sponsors accountable.

I wrote a letter to Ms. Meissner over 2 months ago asking that question specifically. I still have not received a return letter. I asked Ms. Sale when she appeared before this committee a couple of weeks ago if we could have that information, and still have not received that information on how accountable the sponsors are. In fact, one of the aspects of the document, the affidavit, is in some cases they require a bond. I asked, how many times has there been a bond required or how many times has there been a bond forfeited?

I can tell you that in my home district in Ventura County, CA, we have a tremendous number of immigrants that have come under sponsored programs immediately ask for \$4,000 hearing aids, and I can go on and on and on. Can you tell me if these questions have been asked? What kind of accountability and tracking does INS have?

Ms. JORDAN. This question, of course, has been asked by many, and we held hearings to assess it. Congressman, what we have proposed is that we make it a legally enforceable, contractual obligation of the sponsor of the entering immigrant. Right now, it is more a moral obligation than a legal obligation.

Morality is, of course, very good if people have the same moral commitment that you would have, but where it comes to who can enter and sponsoring that entering alien, you are responsible for that person being here and you are responsible for that person not becoming a public charge. And therefore the best way to handle this is to make that sponsor accountable.

Now, our Executive Director, Dr. Martin, may be able to comment on what has happened in INS in the past. I cannot.

Mr. GALLEGLY. If I could just follow up very quickly, I have a little different interpretation about this being a moral issue, because it is on the affidavit where a person signs that affidavit of the responsibility under penalty of perjury, if I am not mistaken, and it further says that if the INS questions the capability of the sponsor



to follow through with that, they may require a bond. Now, to me, that sounds like a little more than a moral obligation.

Ms. MARTIN. The courts have generally held that the affidavit as it is currently construed is not enforceable, that, yes, the State Department or INS can request a bond; and we have also had difficulty in finding out precise information about how often the bonds are required and what happens to the funds afterwards. I think that that is a little bit of a black hole that we need more information on.

But the reason that the Commission recommended that the affidavit be explicitly framed in legislation as having a contractual obligation is in order to develop a system by which the consular officer or the INS officer making a decision on admission can be very specific as to what it is that the sponsor will be required to do, the sponsor will know exactly what the requirements are in terms of income support and other forms of support for that immigrant, and then if the sponsor does not abide by their side of the agreement, that there would be a legal, court-challengeable procedure to be able to enforce that responsibility.

Mr. GALLEGLY. Why have we not done that?

Ms. JORDAN. That is an excellent question, Senator—Congressman.

Mr. GALLEGLY. I think I have been demoted.

Ms. JORDAN. I would not do that to you. However, we have recommended it, and it is your opportunity.

Mr. GALLEGLY. Thank you very much, Professor. And thank you, Mr. Chairman.

Mr. SMITH. The gentleman from Tennessee, Mr. Bryant, is recognized for 5 minutes.

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman. I have an opening statement, and if it would be in order I would like to just submit it rather than read through it, and follow up with just a couple of questions.

Mr. SMITH. Without objection.

[The opening statement of Mr. Bryant of Tennessee follows:]

OPENING STATEMENT OF HON. ED BRYANT A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF TENNESSEE

Thank you, Mr. Chairman, I am proud of America's historic reputation as a land of immigrants. Few, if any of us, in this room can claim that our ancestors did not immigrate to this great nation at some point in time. Those who have chosen to leave the nation of their birth and move to America, came because of a desire for freedom, and for the chance to make a better life for themselves and for their families, and wholeheartedly support their decision, and encourage them to seek U.S. citizenship.

Let me repeat that, I encourage them to seek U.S. citizenship. I do not encourage those who wish to enjoy the benefits of American citizenship to take advantage of our generosity or of the proximity of our borders.

Mr. Chairman, the nightly news is full of stories about the literal floods of illegal immigrants who nightly cross our southern borders, and I strongly support efforts to curb this tide, however, today this Subcommittee is addressing another, not so publicized, occurrence that has many of the same devastating effects on our nation.

Mr. Chairman, I am speaking of those foreigners who have taken advantage of our willingness to allow them to temporarily visit our nation, by ignoring the date given to them for departure. Many of these people do so indefinitely, and so in a sense become permanent residence enjoying the benefits of our society. It is bad enough that many of these illegal immigrants take jobs from American citizens, but even worse is the fact that many of them come to the U.S. with the intention of

committing numerous criminal acts and we seem to be powerless to do anything to prevent either their entry or to accelerate their departure.

Mr. Chairman, some of these "overstays" are actually responsible for the deaths of American citizens. One such example which I think everyone in this room can identify with is the person accused of the World Trade Center Bombing, Mohammed Salameh.

According to the New York Times, when "Mohammed Salameh, one of the two main suspects in the bombing of the World Trade Center, entered the United States as a temporary foreign visitor in 1987, he quickly slipped through a Federal immigration bureaucracy that had no plan or hope of ever tracking him amid the nation's vast tide of illegal aliens.

"He joined about 500,000 other visitors who drift from sight annually as their visas lapse. They usually are never traced or thought of again until such a moment as now when startled, angry Americans begin questioning whether the United States immigration system presents a model of sanctuary or of porousness for the global throngs seeking entry."

This case exemplifies some of the worst problems of this nation's procedures for dealing with the more than 20 million people who come to the United States as temporary visitors each year, and I for one am ashamed to go home to the folks in Tennessee and explain to them that their safety is in jeopardy because their government cannot keep track of the people whom it lets in everyday.

Mr. Chairman, as you know, I am new to this Congress and to this Committee and so I can only express my concerns at our inability to protect our borders. I do not pretend to have any quick answers that would solve this problem and I look forward to the testimony of these experts in the hopes that we will be able to develop some workable solutions, and I thank the chair.

Mr. BRYANT of Tennessee. Professor Jordan, following up with Mr. Gallegly's questions regarding other sponsorship, do you have—any of you for that matter—have a recommendation as to how we could make that sponsorship more binding legally, that requires a sponsor to be responsible?

Ms. JORDAN. I am going to ask Commissioner Hill if he would comment on that response.

Mr. HILL. Congressman, we have not discussed any specific language on the affidavit that would be used, but we would—the expectation is that the document, as Professor Jordan indicated, would be a contractual obligation of the sponsor which could be enforced through mechanisms such as now being used to enforce child support payments. Whereas the sponsor would actually be required to pay—if necessary, through enforcement or liens on property or payroll obligations—for the support of the individual for whom they sponsored—whom they sponsored and petitioned.

Right now, the documents are used principally by consular officers and examiners in determining whether an individual is likely to become a public charge, but once they have made that determination, they are no longer—unless there is a bond—adequate to ensure against that eventuality.

Mr. BRYANT of Tennessee. I know there is a category for students that come in, and I know that there is abuse there, that people come in under the auspices of going to school and they really don't stay in school. Is this a category that requires a sponsor?

Mr. HILL. Interestingly, when a foreign student comes, the document given them by the school, if they come as a student, they get an I-20; they have to demonstrate to the school that they have sufficient resources in advance to cover things like tuition and living expenses for the school year. So I don't believe it is as big a problem there, because the resources must be available and verified by the school before that document is issued.

Mr. BRYANT of Tennessee. I guess this issue of sponsorship and legal responsibility would be limited generally to the issue of an illegal immigrant becoming a public charge.

Mr. HILL. Actually, a legal immigrant coming through family immigration or—yes.

Mr. BRYANT of Tennessee. Could you estimate what percent of the legal immigrants that overstay would fall into that category of public charge? Is it 10 percent? Half?

Ms. MARTIN. There are no specific statistics on nonimmigrants, tourists or business travelers who overstay their visit visas, or foreign students, and then obtain some form of public support within the United States.

The issue that has been more of a problem has been people admitted as permanent residents who can stay as long as they—indefinitely within this country and who, at some point prior to becoming citizens, require the use of public programs. And it appears that the numbers who are—of this category who are using federally funded programs within the first 3 or 5 years after their entry, when the affidavits are supposed to be taken into account, is relatively low.

Some larger number, though, find that they are eligible for State or local programs because the States and localities are not able to take the sponsor's income into account the way it is currently arranged, even though the Federal programs are able to. And that number may be a bit higher in the period immediately after the sponsors' incomes are deemed by Federal programs—and particularly in the SSI program, the proportion using these programs—does increase; particularly the proportion of older immigrants who come in as parents of U.S. citizens, and there it is a fairly significant part of the SSI caseload.

Mr. BRYANT of Tennessee. So that is a step in the process where you work from the other side. If someone goes in to apply for public assistance, they know at that point, the organization does, to look at the sponsor; and they are approaching it from that end too, the back end?

Ms. MARTIN. Right, and a nonimmigrant is not eligible for most of these programs; they are limited to permanent residents and citizens.

Mr. SMITH. I have a couple more questions and I believe Mr. Bryant of Texas has another question as well, and we will try to be brief.

In regard to the visa overstayers—and this is something that you addressed in your 1994 report—one deterrent, of course, to the visa overstayers is employer sanctions. But if that is our only line of defense, so to speak, aren't we saying to visa overstayers that if you overstay you are here to stay—

Ms. JORDAN. No.

Mr. SMITH [continuing]. In the sense that, for example, if they are not deterred because of not being able to get a job, are we really apprehending enough individuals to provide a deterrent to their staying in this country? Or are we just saying, you get in here on a visa and overstay it and nothing is going to happen; and the word can get around and that is a real incentive to see that continued?



Ms. JORDAN. Mr. Chairman, deportation must be a part of our immigration policy. And if you have that visa and you have done what you came here to do, if you don't voluntarily go back home, we deport you and send you back. That is a part of our recommendations, and it certainly would enhance even the credibility of saying this is a visa for this period of time. You would not because you would be sent back if you stayed too long.

Mr. SMITH. I agree with you entirely. I think deportation has to be a part of the solution, and one of the questions I intend to ask the INS is, how many people are actually being deported, which I think is part of the problem there.

My last question, Professor Jordan, had to do with your testimony where you say, "We recommend immediate reimbursement of criminal justice costs, because these conditions can now be met, but we urge further study of the costs of health care and education before impact aid is provided." I happen to agree with you, but how do you distinguish, say, reimbursement by the Federal Government of the States for the cost of incarcerating criminals, but not reimbursement for education or welfare or whatever else it might be?

Ms. JORDAN. It has to do with the availability and credibility of the numbers under each of those categories. We know what the costs are related to the criminal alien. We do not have good data on the other costs, of health and education, of that.

And I would like for Dr. Martin to add to what I have said in filling out that response.

Ms. MARTIN. In addition to the concerns that the Commission has about the very poor data on education and health care, because of the very difficulty of identifying who is an illegal alien in those categories, you can see a prisoner and ask them the right questions and INS can check if they are an illegal alien or not and you have an answer. With schoolchildren and emergency medical, it is quite a lot harder.

The other thing that we are very concerned about is that we not provide impact aid unless it is done in a means that actually helps in the enforcement of our immigration laws, that we should not have impact aid become an alternative to that type of enforcement, that the first priority has to be spending the resources and the attention on curtailing illegal immigration. And we are concerned that most of the mechanisms that would enhance enforcement in the schools or the hospitals would be counterproductive to accomplishing that goal.

Mr. GALLEGLY. Will the gentleman yield?

Mr. SMITH. I will be happy to yield to my colleague from California.

Mr. GALLEGLY. Ms. Martin, I am a little perplexed. You are saying that it is easier to ascertain immigration status on a prisoner than a child enrolling in school or someone applying for medical care. But, you know, our children have to provide either a birth certificate, I think, in most places when they enroll in school, inoculation verifications and so on and so forth. How much more difficult is it to ascertain the status of their—

Ms. MARTIN. We have obtained quite a lot of testimony from officials within school systems who are concerned that under the terms of the Supreme Court decision that requires that illegal alien



children receive primary and secondary education that they are unable to ask specific questions about legal status.

Mr. GALLEGLY. That has nothing to do with ascertaining—if you have a birth certificate, why do I need provide a birth certificate for my child to enroll and then—

Ms. MARTIN. We are concerned about the proliferation of fraudulent documents, including birth certificates, as a mechanism. And if there is not a really good verification process within the school systems and the hospitals, we will have the same problems emerging there that have already emerged at worksites in terms of even more proliferation of those documents. We are not satisfied that we have the information—

Mr. GALLEGLY. You don't think that will happen with the criminal alien aspect?

Ms. MARTIN. Because of the fact that the criminal alien is incarcerated and in a more confined circumstance, the ability to get the information on that individual has proven, at least up to this point, to be much more feasible; and we are concerned that there not be a use of Federal resources prior to a point where we feel that the data that are being used to justify that use are as accurate and as good as the data can be.

Mr. GALLEGLY. Mr. Chairman, thank you. I know that this goes on and on and on, but I would like to follow up.

Mr. HILL. May I add one point that I think is very important in our report?

We have conditioned our recommendation in the report on the cooperation of State and local authorities in enforcing the immigration laws. One of the things that we were very concerned about are various State and local laws, regulations, policies, et cetera, that actually prohibit such cooperation, and we believe that in order to benefit from any impact aid whatsoever, that must be a condition.

Mr. SMITH. Thank you, Mr. Hill.

I will yield to my colleague from Texas for his questions.

Mr. BRYANT of Texas. Thank you.

A favorite sport for many years has been beating up on the Immigration and Naturalization Service, as you know, and some of that is due to the fact that we, as a nation, have a hard time making up our mind what we want out of them.

On the other hand, some of it is—I think, has been deserved; and I wonder if—in the course of your work, have you identified anything that is innate to the structure of this agency that needs to be changed or that lends itself to the problems that we continually go after it about?

Ms. JORDAN. Congressman Bryant, I believe that our present Commissioner of INS has the right mindset to make that agency the kind of functioning, effective and efficient agency that it could be. She has a very difficult task ahead of her. But I believe she has attacked it quite directly and understands what needs to be done to enhance the credibility and efficacy of that agency. And what we really need to do, in my opinion, is to be supportive of the initiatives which have been put underway and are now led by Commissioner Meissner.

Mr. BRYANT of Texas. There are no departmental rivalries within the agency that have you identified that are going to always be there, that create problems or any such thing as that?

Ms. JORDAN. Congressman, I am not competent to respond to that question because I am not there. But it is my feeling that there is always a little internecine warfare over turf, but I believe that that is quite submerged under the necessity to really enhance the effectiveness of the agency.

Mr. HILL. If I may, Congressman, we did indicate in our report some areas of potential concern, if you will, with respect to cooperative efforts on the border between the Customs Service and the Immigration Service in enforcement of employer sanctions between the Labor Department and the Immigration Service. We just raised preliminary concerns and indicated that it is something that we would like to consider further in our deliberations.

One of the tasks we are mandated with under the Immigration Act of 1990 is to examine implementation of the provisions of that act, which I believe would cover the topics that you are now discussing, and that will be a segment of our final report.

Mr. BRYANT of Texas. That work will be welcome because this has just been ongoing. I have been involved in this area a long time, and it never ceases, no matter who the President is and no matter who is in charge of the Congress; and I began to wonder if there was something about the agency that we ought to examine in terms of its fundamental structure.

Thank you.

Mr. SMITH. Professor Jordan, thank you for being with us today. And, Dr. Martin and Mr. Hill, thank you for accompanying Professor Jordan. We look forward to your reports.

Ms. JORDAN. Thank you, Mr. Chairman.

Mr. SMITH. I would like to welcome our second panel and if you all would please come forward to the table. Let me welcome you all. We have Diane Dillard, Deputy Assistant Secretary for Visa Services, Bureau of Consular Affairs for the Department of State; James Puleo, Executive Associate Commissioner for Programs, Immigration and Naturalization Service, accompanied by Robert Warren, Director of the Statistics Branch.

If I could ask you to summarize your testimony in 5 minutes to get to the questions as quickly as possible.

#### STATEMENT OF DIANE DILLARD, DEPUTY ASSISTANT SECRETARY FOR VISA SERVICES, BUREAU OF CONSULAR AFFAIRS, DEPARTMENT OF STATE

Ms. DILLARD. I would like to emphasize a few points from my written testimony.

Consular officers are conscientious and committed to carrying out the provisions of the Immigration and Nationality Act. One provision of the law, section 214(b), is paramount in our determination as to whether or not we issue a nonimmigrant visa. It instructs us, first, that an alien is presumed to be an immigrant until he or she convinces us otherwise, and second, that our decision is to be made by gauging the applicant's intent at the time of application.

How do consular officers learn to make these decisions? The first training takes place shortly after the officer enters the Foreign

Service in the 26-day consular course. This course employs simulated interviews, video instruction, and a number of other training tools, as well as visits to INS installations at ports of entry. Officers also participate in area studies programs to learn about the cultural, economic, and political realities impinging upon the life of the average citizen of the country where he or she will serve.

At-post training is an important part of the officer's preparation to adjudicate visa requests; post-specific concerns such as overstay rates, adjustment rates, et cetera, are covered in that training, and the officer's decisions are reviewed by a supervisor. Advanced training on consular issues is offered as officers move to supervisory roles after two or three tours, and the visa office is a continuing resource for advice responding to pleas for guidance by fax, phone, E-mail and cable.

The consular officer is not only concerned with keeping out the nonbona fide applicant but also with helping the legitimate traveler to obtain the right visa speedily. The balance of trade and money spent by visitors to the United States is our one area of surplus, \$20-plus million in 1993.

We are concerned about overstays, of course. Whether that figure is less than 1 percent of the 22 million visitors each year, or 2.5 percent of that figure, it is still very low. Any system right 97.5 to 99 percent of the time is a very good system. Nonetheless, we continue to work at finding the right balance of keeping out the intending immigrant while assisting the valid visitor.

As Mr. Puleo noted in his written testimony, circumstances do change; some aliens who arrived planning to depart on time change their minds. Family friends and economic opportunity are powerful influences not easy to resist.

Thank you, Mr. Chairman.

Mr. SMITH. That was quick. Thank you.

[The prepared statement of Ms. Dillard follows:]

PREPARED STATEMENT OF DIANE DILLARD, DEPUTY SECRETARY FOR VISA SERVICES,  
BUREAU OF CONSULAR AFFAIRS, DEPARTMENT OF STATE

Chairman Smith, Members: Thank you for inviting me to testify before your committee.

In most parts of the world, nonimmigrant visa issuance constitutes the first line of defense in establishing border security. The gravest problems we have with border security occur when geographic or other conditions make it easy to circumvent the visa process. Where visas work, the borders are safer. Today, I would like to talk with you about that first line of defense, the nonimmigrant visa process.

The Immigration and Nationality Act assumes all aliens coming to this country are immigrants unless they establish, with adequate evidence, that they are not. It is only when they can establish their qualification for one of the 57 classes of non-immigrant visa that such a visa is issued.

Of those, over 80% of the visas issued are in the B category, temporary visitor for business or pleasure. Student, exchange and the various categories of temporary worker visas constitute most of the rest.

In adjudicating a visitor or student visa, the INA requires the consular officer to find that the applicant has a residence abroad he or she has no intention of abandoning. To do this, consular officers most often examine evidence of occupation, family, property or social position to see if the applicant has the ties that would likely impel a return home at the end of a lawful, temporary stay in the United States.

In making this adjudication, the consular officer has a fine line to walk. On one hand, the consular officer must be aware that he/she is serving on the front line of protecting our country against not only illegal immigration but also against those whose coming would be inimical to the country's interests, as described in the grounds of ineligibility found in section 212(a) of the INA. On the other hand, the



United States has an interest, indeed, has committed itself to furthering international travel. We are all acutely aware that travel and tourism is one of the country's principal earners of foreign exchange. It must also be noted that many American companies and individuals have legitimate interests in bringing friends, relatives, employees and business associates into this country for temporary visits. And nothing has proved as successful in spreading American values of democracy and a free market as have our student and exchange programs.

Moreover, the consular officer evaluates an applicant according to present intention. We are not able, indeed we consciously avoid speculating about what changes of plans might result from changes of circumstances. Nowhere is this more apparent than in issuing student visas. How many eighteen year olds entering college know what their intentions will be four years later? So long as they harbor no intention of abandoning their residence abroad at the time of visa application, we are not in the position to predict the future for them.

Walking this fine line of issuing visas to those we can and refusing them to those we must is the art we practice. This results in a variety of results around the world according to the economic, political and social conditions of various societies. People from some societies are simply more inclined to abuse visa status than others, so greater care must be taken in those circumstances. This can result in the non-immigrant visa waiver for some nationalities and refusal rates over 80% for others.

By the way, we have undertaken an informal project with the Italian and Portuguese consuls in Washington to assure that all aliens departing the United States on their national airlines will have turned in an I-94 or a form letter including all bio data to be forwarded to INS in lieu of the I-94. We have also reinforced to all our posts the importance of collecting I-94s they find still in the possession of returned travelers, and forwarding them to INS.

Our embassy in Rome has launched a strong effort to educate the traveling Italian public, urging them to seek visas when planning a stay longer than 90 days and reminding them to turn in their I-94s to the airline. Our consul general has also met with Alitalia officials to stress the importance of collecting the I-94s and sending them to INS. At this meeting, one of the officials took the opportunity to hand over his mother's I-94 which Alitalia had neglected to collect when she left the U.S.

Although the overwhelming number of nonimmigrant visa decisions are made on the grounds of intention to observe status, certainly the most significant refusals are made on the basis of excluding those whose entry is contrary to the country's interest. Congress has enumerated grounds of visa refusal based on health, criminal, moral, and public charge reasons. Whenever it is known that an alien is ineligible on one of these grounds, the alien's name is placed in the visa lookout system indicating either that the applicant is ineligible for a visa or that further inquiry into eligibility is indicated. This lookout system entry is available to all consular sections and all INS officers at our ports of entry.

With the money Congress made available to us in the authorization act of 1994, we are in the process of installing the machine readable visa in every visa issuing post. Already, over 70% of the nonimmigrant visas issued are issued by this method. Over 97% of all nonimmigrant applications are now vetted through an automated system.

The machine readable visa has two capabilities significant to border security. The first is that it is an extremely difficult document to alter or counterfeit. The second is that it is also machine issued, and the process requires that the visa lookout system be consulted before issuance. During 1994 twelve thousand nonimmigrant visas were refused under one of the provisions of section 212(a). That is not many, but their denial is important.

As I mentioned earlier, the machine readable visa application fee of \$20 which Congress has authorized us to levy on a temporary basis has been invaluable in providing us with the resources to connect every issuing post, no matter how low its visa volume, to an automated name check system. We hope to see this authorization made permanent to assure a source of funding so we may continue with the enhancement of our visa systems and document security to counter the ever more sophisticated counterfeiting techniques being developed.

The Department of State recognizes the importance of the visa issuance process in achieving border security. It knows that it must keep a corps of well-trained officers, well-attuned to local conditions, to adjudicate these visa applications. It is important that we give them the training and equipment and deploy them efficiently so that their decisions will continue to help safeguard the interests of this country.

Thank you. I would be happy to address any questions you might have.

Mr. SMITH. Mr. Puleo, we will go to you.

**STATEMENT OF JAMES A. PULEO, EXECUTIVE ASSOCIATE COMMISSIONER FOR PROGRAMS, IMMIGRATION, AND NATURALIZATION SERVICE, ACCOMPANIED BY ROBERT WARREN, STATISTICS BRANCH**

Mr. PULEO. Thank you, Mr. Chairman, for inviting me here today to discuss issues concerning the identification and removal of nonimmigrant aliens who enter legally but subsequently fail to depart when their authorized stay in this country expires.

In fiscal year 1994, the Immigration and Naturalization Service inspected and admitted over 510 million persons at 200 air, land and sea ports of entry, while identifying 661,791 inadmissible aliens. Of those admitted, 333 million, or almost two-thirds, were noncitizens. I would like to begin my describing briefly the screening procedures that precede the admission of nonimmigrants.

When a nonimmigrant visitor arrives at a U.S. air, land, or sea port of entry, an immigration inspector conducts an inspection to determine identity, nationality and admissibility. INS also queries a lookout data base to assist in determining their admissibility. Nonimmigrants must provide valid passports or visas, unless exempt; not be excludable from the United States; and agree to be abide by the terms and conditions of admission, including to depart when required.

Visitors from 22 countries coming to the United States for business or pleasure for up to 90 days may be admitted without visas under the visa waiver pilot program. To expedite our high volume of persons entering regularly over the Mexican land border, the border crossing cards are issued to Mexican nationals. This card admits holders for travel within 5 miles of the border for up to 72 hours. Certain Canadian nonimmigrants visitors, primarily visitors for pleasure or business entering for periods of less than 6 months, are exempt from visa requirements. These visitors are still inspected.

Most malafide applicants for admission are detected during the inspection process because they lack documents or because they present fraudulent documents. However, a significant number of properly documented nonimmigrants are refused admission based upon their response to questions asked during the inspection.

Let me give you an example of an intercept of an unqualified nonimmigrant that immigration inspectors at J.F.K. International Airport made recently. A 25-year-old Polish woman, who resided in the United States for most of the previous year, asked for admission as a visitor indicating a wealthy suburban area as her destination. At secondary inspection, she admitted that she had been working illegally as a babysitter for \$6 an hour during her last nonimmigrant visit.

Despite efforts to screen nonimmigrants both abroad and at ports of entry, some remain illegally after their authorization period for admission. Last April, INS estimated that the resident unauthorized immigrant population in October 1994 was 3.4 million and growing at a rate of 300,000 persons annually. Nonimmigrant overstays comprise approximately half of our resident illegal population.

On an annual basis, a very small percentage of nonimmigrants overstay, about 1.5 to 2 percent of the persons entering and filing

arrival/departure documents. Recognizing the magnitude the non-immigrant overstay component, the President's budget request for fiscal year 1995 and 1996 has sought additional resources for interior enforcement to limit alien access to U.S. jobs, to curb applications for asylum from persons who really seek employment authorization, to identify and remove criminal aliens, and to remove other aliens who have absconded after being ordered deported.

This year we are implementing an enhanced interior enforcement pilot in the Los Angeles and New York districts. We have requested resources for fiscal year 1996 to expand the demonstration program into the seven States that are most heavily impacted by illegal immigration: California, Texas, Arizona, New Mexico, New York, Florida, and Illinois.

We will continue comprehensive coordinated interagency efforts with the INS and the Department of Labor for employer sanctions and labor standards enforcement in selected areas of high illegal immigration and industries that have historically been dependent on the illegal work force.

We plan to invest fiscal year 1996 resources in substantial improvements in the quality of information contained in the INS data base in adapting Social Security Administration data bases for pilots to test various methods of verifying employment eligibility. We will also expand the telephone verification system pilot program focusing on employers and industries that typically attract illegal workers.

INS and the Social Security Administration will initiate additional pilots to test a variety of verification approaches as recommended by the Commission on Immigration Reform.

We are developing and will implement a tamper-proof version of our current employment authorization document to deter fraud and allow easier detection of fraudulent documents. We also will propose legislation to reduce the number of acceptable work authorization documents for noncitizens and citizens.

Lawfully admitted nonimmigrants comprise 33 percent of aliens filing asylum applications with INS. Many of these are sincere and meritorious applicants. However, some nonimmigrants use asylum as a mechanism to remain in the United States with employment authorization while they wait for a decision on their asylum requests.

The asylum reforms which we have begun to implement will reduce the attractiveness of the asylum process as a mechanism to secure employment authorization and delay departures. The new regulations specify that no asylum applicant may request employment prior to 150 days after filing their asylum claim. By removing immediate access to employment authorization, we expect fewer aliens, including nonimmigrants, to file for asylum.

Mr. SMITH. Mr. Puleo, if I may interrupt you for a second, before we get to our questions, would you continue as a part of your testimony and briefly explain to us how you get to the figure or the estimate that half of the illegal aliens in the United States are visa overstayers, and also how many thousands each year fit into that category and just explain how you arrive at the number?

Mr. PULEO. Do you want me to continue?

Mr. SMITH. I would prefer if you would explain that.



Mr. PULEO. I will defer that to Mr. Warren.  
 [The prepared statement of Mr. Puleo follows:]

PREPARED STATEMENT OF JAMES A. PULEO, EXECUTIVE ASSOCIATE COMMISSIONER  
 FOR PROGRAMS, IMMIGRATION AND NATURALIZATION SERVICE

Thank you for inviting me here today to discuss issues concerning the identification and removal of nonimmigrant aliens who enter legally but subsequently fail to depart when their authorized stay in this country expires.

In fiscal year 1994, the Immigration and Naturalization Service inspected and admitted over 510 million persons at over 200 air, land, and sea ports of entry, while identifying 661,791 inadmissible aliens. Of those admitted, 333 million, or almost two thirds, were noncitizens. Well over 90 percent of these visitors entered over our land borders, reflecting the close social and economic ties we share with Canada and Mexico, and the relative ease of international business and pleasure travel to the United States.

#### THE ADMISSIONS PROCESS

I would like to begin by describing briefly the screening procedures that precede the admission of nonimmigrants to the United States with or without visas. A variety of processes are used to screen and admit temporary alien visitors to the United States depending largely on the nonimmigrant category and the country of origin. All inspections, however, are based on guidelines set by the grounds for exclusion in the Immigration and Nationality Act.

Generally, a prospective nonimmigrant applies to a consular office overseas for a nonimmigrant visa in the category appropriate to the intended purpose of the visit. Most—93 percent of all nonimmigrants—enter with visitor visas for pleasure or business. All of these persons are screened through the Department of State lookout data base. The process for issuing the visa varies from post to post depending upon the prevalence of fraud in that location. At some posts, nonimmigrant visas are issued based on mail-in applications. In high-fraud posts, face-to-face interviews may be required for some or all applicants. When an application is approved, a nonimmigrant visa is placed in the applicants passport. Nonimmigrant visas may be valid for a single or limited number of entries, or for an extended period of time and unlimited number of uses.

When a nonimmigrant visitor with a visa arrives at a U.S. air, land, or sea port of entry, an Immigration Inspector conducts an inspection to determine identity, nationality, and admissibility. INS also queries a look-out data base to assist in determining their admissibility. Nonimmigrants must present valid passports and visas, unless exempt; not be excludable from the United States; and agree to abide by the terms and conditions of admission, including to depart when required. If there are significant questions about a nonimmigrant's intent or ability to support himself or herself while here, he or she may be required to post a bond as a condition of entry.

Visitors from 22 countries coming to the United States for business or pleasure for up to 90 days may be admitted without visas under the Visa Waiver Pilot Program. Since 1988, over 50 million visitors have entered the United States under this program which the travel and tourism industry credits for increasing tourism to the United States. The countries in the program were designated because of their low visa refusal and violation rates.

The admissions process is somewhat different for the majority of visitors entering over our land borders. To expedite the very high volume of persons entering regularly over the Mexican land border, the Immigration and Naturalization Service and to a lesser extent, consular posts in Mexico, issue Border Crossing Cards to Mexican nationals. This document replaces consular-issued nonimmigrant visitor visas for Mexican citizens. This card admits the holder for travel within 25 miles of the border for up to 72 hours. A Border Crossing Card holder can apply for a permit allowing travel anywhere within the five-state area of California, Arizona, Nevada, New Mexico, or Texas, for up to 30 days. Certain Canadian nonimmigrants, primarily visitors for business or pleasure entering for periods of less than 6 months, are exempt from visa requirements. These visitors are still inspected and must meet all the other requirements for admission.

#### DETECTION OF INADMISSIBLE ALIENS AT ENTRY

Most malafide applicants for admission are detected during the inspections process because they lack documents or because they present fraudulent documents. However, a significant number of properly documented nonimmigrants are refused



admission based upon their responses to questions asked during inspection. These questions are aimed at determining whether an applicant for admission is coming for a purpose consistent with the type of visa issued and whether there would be a threat to the safety, welfare, health, or security of the United States if the person were admitted.

Let me give you examples of intercepts of unqualified nonimmigrants that Immigration Inspectors at JFK International Airport have made recently. An Ugandan national applying for admission as a nonimmigrant visitor requested a one-month stay in the United States before proceeding to a table-tennis championship in Mexico City. An in-depth secondary inspection, which included a search of his baggage, revealed that he had been working in the United States illegally with a counterfeit alien registration card and a valid Social Security card. Another case involved a 25-year-old Polish woman who had resided in the U.S. for most of the previous year and now was asking for admission as a visitor indicating a wealthy suburban area as her destination. At secondary inspection, she admitted that she had been working illegally as a babysitter for \$6 an hour during her last nonimmigrant visit.

Our immigration inspectors are challenged daily with the responsibility of inspecting thousands of applicants for admission and detecting malafide applicants while admitting the majority of arrivals expeditiously. To help our inspectors meet that challenge, we are testing and using many new forms of technology. We are testing the use of biometrics, such as hand geometry or fingerprints, to identify and inspect low-risk, frequent business travelers through the INS Passenger Accelerated Service System (INSPASS). This test at Newark, JFK, and Toronto Preclearance has over 40,000 enrollees who are issued machine-readable cards which include an encoding of their hand geometry. Once enrolled, the INSPASS card-holder can proceed directly to an automated kiosk to go through the automated inspection process. If there is not a match between the traveler and the card, the traveler is required to follow regular inspection procedures.

Under the Advance Passenger Information System (APIS) advance information on passengers is transmitted to us electronically by air carriers prior to aircraft arrival. Upon arrival, the passengers on an APIS flight can proceed to a special "Blue Lane" for an expedited inspection process. Advance information has enabled us to intercept inadmissible aliens immediately upon their arrival. Every action that we take to reduce the amount of time spent on bonafide travelers allows us to spend more time in the detection and inspection of inadmissible aliens.

Unfortunately, some malafide nonimmigrants manage to pass through the inspections process without being identified. For some other nonimmigrants who entered legally and perhaps intended to depart as required, circumstances change and they stay after their period of authorized entry has expired, often to take jobs. These aliens become part of the undocumented alien population.

#### ESTIMATES OF NONIMMIGRANT OVERSTAYS

The size of the undocumented alien population, including the number of non-immigrant overstays, has been a matter of considerable speculation for the past two decades. However, over the past several years, concerted joint efforts by the government and private sector have provided increasingly accurate information about the likely dimensions of the illegal alien population.

Last April, INS estimated that the resident unauthorized immigrant population in October 1992 was 3.4 million and growing at a rate of about 300,000 persons annually. This means that the current resident unauthorized population in the United States is about 4 million.

The estimation procedures used in developing these estimates accounted separately for undocumented residents who entered by illegally crossing the land borders, and those who entered legally through ports of entry but did not depart when their authorized stays expired. These estimates show that about half of the resident illegal alien population entered by crossing our land borders surreptitiously. The remaining half of the resident undocumented population were nonimmigrant overstays.

Nonimmigrant overstays are a more diffuse population in every sense of the word, and a population which has been more difficult for INS to apprehend and remove. However, for persons from most countries of the world, overstaying lawful non-immigrant admissions is the typical means for becoming part of the undocumented alien population. Attached is a chart of the ten top nationalities among the non-immigrant overstays.

While it appears likely that nonimmigrant overstays comprise a significant portion—approximately half—of our resident illegal alien population, let me put this into perspective. Last fiscal year the United States admitted over 333 million aliens.

Along with these legal admissions come a far smaller number of persons seeking entry without proper documentation, or entering lawfully and violating the terms of their admission by not leaving on time or taking unauthorized employment. On an annual basis, a very small percentage of nonimmigrants overstay—about 1.5 to 2 percent of the persons entering and filing arrival/departure documents. But this number poses a significant challenge for our enforcement programs because, as I mentioned earlier, nonimmigrant overstays represent every nationality, are in every state, and are working in jobs in every employment sector ranging from the lowest to the highest paying.

### INTERIOR ENFORCEMENT STRATEGIES

The most effective way to deter illegal immigration is through a combination of strengthened border control and interior enforcement. The Administration's plan for investing \$93 million in fiscal year 1996 in intensified interior enforcement efforts both complements and supplements the multi-year border control strategy that has been successfully underway for the past 2 years.

Recognizing the magnitude of the nonimmigrant overstay component of the undocumented alien population, the Presidential budget requests for fiscal years 1995 and 1996 have sought additional resources for interior enforcement—to limit alien access to U.S. jobs, to curb applications for asylum from persons who are really seeking employment authorization, to identify and remove criminal aliens, and to remove other aliens who have absconded after being ordered deported.

### REDUCING THE MAGNET OF U.S. JOBS

Recognizing that employment is the primary incentive for illegal immigration, our interior enforcement strategy is targeted at reducing the magnet of job opportunities for illegal migrants regardless of their method of arrival. This will be accomplished in the following ways:

#### WORKSITE ENFORCEMENT

This year we are implementing an enhanced interior enforcement pilot in the Los Angeles and New York districts to develop greater knowledge of interior deterrence. A fiscal year 1995 Appropriations increase of \$6.3 million will add new personnel at each location. We have requested resources for fiscal year 1996 to expand the demonstration program into the seven states that are most heavily impacted by illegal immigration: California, Texas, Arizona, New Mexico, New York, Florida, and Illinois. High priority for compliance examination will be given to industries that have historically depended on an illegal workforce. A significant increase in the investigation and prosecution of fraud document vendors and facilitators is expected. The higher level of worksite visits will result in some increase in the apprehension of aliens. These apprehensions will be a mixture of persons who entered without inspection and nonimmigrant overstays.

Building on fiscal year 1995 employer sanctions efforts, we will continue comprehensive and coordinated interagency efforts. The INS and Department of Labor (DOL) will coordinate their employer sanctions and labor standards enforcement in selected areas of high illegal immigration. The Administration's fiscal year 1996 budget request will provide 340 new INS Investigations personnel to enhance work site enforcement and 202 new DOL personnel to enhance labor standards enforcement.

#### IMMIGRATION STATUS VERIFICATION

We plan to invest fiscal year 1996 resources in substantial improvements in the quality of information contained in INS data bases and in adapting Social Security Administration databases for pilots to test various methods of verifying employment eligibility. Improving INS data accuracy and the timeliness of status information will make it easier for employers to ensure they are maintaining a legal workforce, for agencies to verify eligibility for benefit programs, and will help reduce discrimination.

We will also expand our Telephone Verification System pilot program focusing on employers in industries that typically attract illegal workers. This system will provide employers with a simple, automated means of verifying the work eligibility of noncitizens.

INS and the Social Security Administration (SSA) will also initiate several additional pilots to test a variety of verification approaches, as recommended by the Commission on Immigration Reform. These pilots will include expanding Social Se-

curity Number validation for employers, testing a two-step process to cross check INS and SSA Files, and simulating methods for combining INS and SSA data.

#### FRAUD-RESISTANT INS DOCUMENTS AND DOCUMENT REDUCTION

Building on current initiatives to make immigration documents more counterfeit-resistant, we are developing and will implement a new, tamper-proof version of the current Employment Authorization Document (EAD) to deter fraud and allow easier detection of fraudulent documents. A centralized process for issuing EADs and Alien Registration Cards ("green cards") will lower production costs, speed service to the public, and improve employers' ability to authenticate legitimate documents.

We also will propose legislation to reduce the number of acceptable work authorization documents for noncitizens and citizens. As an initial step, INS will soon propose a regulation reducing the number of such documents from 29 to 16.

#### ASYLUM REFORM

Lawfully admitted nonimmigrants comprise approximately 33 percent of aliens filing asylum applications with INS. Many of these nonimmigrants are sincere and meritorious applicants who cannot return to their home countries because of a well-founded fear of persecution. However, some nonimmigrants use asylum as a mechanism to remain in the United States with employment authorization while they wait for a decision on their asylum requests.

Our recently implemented asylum reforms will reduce the attractiveness of the asylum process as a mechanism to secure employment authorization and delay departures. As you know, this year we are hiring and training 184 additional asylum officers and 73 immigration judges. INS is now scheduling most new asylum applicants for an interview within 30 days of filing. The new regulations specify that no asylum applicant may request employment prior to 150 days after filing their asylum claim. In the case of new filings, we are interviewing and referring the asylum claim to an immigration judge within 60 days.

The additional immigration judges should allow these referred cases to be scheduled with a final decision on their asylum claim and a final order of deportation, if denied, prior to the end of the 180-day period by when such asylum seekers would be eligible for employment authorization. By removing immediate access to employment authorization, we expect fewer aliens, including nonimmigrants, to file for asylum as a means to remain in the United States. For those asylum applicants who continue their claims before immigration judges in deportation proceedings and who are denied, there will be greater likelihood of removal.

#### REMOVING DEPORTABLE ALIENS

While criminal aliens are normally detained during their deportation proceedings, other aliens, including nonimmigrant overstay, placed in proceedings on other deportation grounds are generally not detained while the Executive Office for Immigration Review schedules and completes deportation hearings. When final deportation orders are issued on such nondetained aliens, limited INS resources have restricted our ability to effect their removal.

The Administration is proposing to focus additional resources on detaining more of these noncriminal aliens within the President's fiscal year 1996 budget request. We will not only increase INS and non-INS detention space, but are designing a comprehensive transportation network to ensure that we can move detained aliens to locations where detention space is available. We believe that with these new efforts that noncriminal alien removals will more than double from 25,600 in fiscal year 1995 to 53,080 in fiscal year 1996.

We are currently expediting the deportation of criminal aliens through expansion of the Institutional Hearing Program (IHP). The IHP improves efficiency in the processing and removal of criminal aliens by systematically channeling criminal aliens for INS processing and deportation hearings while they are still incarcerated. When their sentences have been served, INS assumes custody for prompt removal. Our additional resources this year are focused on the Federal prison system and the five states that have the largest concentrations of incarcerated aliens. The 1996 budget request will expand the Criminal Alien Removal Program by completing IHP requirements for processing incarcerated criminal aliens in California, Texas, Illinois, New York and Florida and allow expansion into Arizona and New Jersey.

INS gives first priority to identifying and removing criminal aliens, including non-immigrant overstay. During fiscal year 1994, criminal aliens who were non-immigrant overstay accounted for about 10 percent of all INS removals.



## NEW IMMIGRATION AGENT POSITION

This year we are taking another step which will improve our interior enforcement capabilities. Historically, INS has used Special Agents to perform the full range of interior enforcement functions which has tended to limit the amount of time spent on some of the more routine but highly important interior enforcement work. We have established a new position, Immigration Agent to perform lower graded administrative enforcement functions which will free our Special Agents to perform more complex casework. These new immigration agents will reduce illegal employment opportunities through conducting workplace compliance inspections and administrative sanctions cases, and processing unauthorized aliens for deportation. They will also identify and process incarcerated criminal aliens for deportation.

## CONCLUSION

Interior enforcement has posed a particular challenge for INS because it is a far more difficult population to find and remove than illegal or malafide entrants at the borders. Limited interior enforcement resources and detention space for non-immigrant overstays and the complexity and lack of timeliness in the hearing and appeals processes have hampered our interior enforcement strategy. For the past 2 years we have been planning and will continue to take concrete steps to rectify this situation. I have outlined many of these initiatives above, including our efforts to focus more of our inspection resources on high-risk rather than routine cases, to reduce the magnet of U.S. employment—which is key to the success of reducing non-immigrant overstays—identifying and removing criminal aliens, and effecting the removal of other aliens—especially nonimmigrant overstays—after they have been ordered removed. I will be pleased to answer any questions.

## TEN TOP COUNTRIES CONTRIBUTING SIGNIFICANT NUMBERS OF OVERSTAYS

Mexico, 60,000; Italy, 18,000; Philippines, 15,000; Bahamas, 13,000; Haiti, 9,000; Jamaica, 9,000; Poland, 9,000; Canada, 8,000; Guatemala, 7,000; and former U.S.S.R., 7,000.

Mr. WARREN. Thank you. I don't have a prepared statement, but I would be glad to go through briefly how we make estimates of the undocumented immigrant population.

In terms of the nonimmigrants who don't depart, those estimates are based on a form that people fill out when they come to the country; and when I say "nonimmigrants," not U.S. citizens or not permanent residents, people admitted temporarily. On the airplane coming over, they are asked to fill out this I-94 form. This is collected from them whether or not their countries are visa-waiver countries; it is collected from everyone. They present this form, filled out, to the INS inspector who takes the arrival part of it, and they are piled up and sent to Kentucky where they are keyed.

When the nonimmigrants leave the country, the airlines personnel are responsible for checking the passport and taking out the departure half of the form, and those are also keyed, and we do a matching of the arrivals and departures. And if, for example, during a year we had 20 million arrival forms and we only matched 19 million departure forms, that would leave 1 million left over.

And what happens is, the INS generally believes that we collect all the arrival forms because people have to go in front of an INS inspector, but the airlines collect the departure part of the form; and because they are busy, and for various reasons, we think that they collect only about 98 percent of the departure forms.

What we have done at INS is to develop a procedure for estimating how many of those forms don't get picked up when people leave the country. I would be glad to go into that in some detail if you want, but I won't right now.

We estimate how many forms don't get picked up by the airlines, and therefore, the number left over is the number of people that we think stayed in the country.

We make these estimates about a year after people should have departed. That gives them a little time, not just people who overstayed a week or two or a month or two. We let about a year go by, and then we make these estimates.

That is essentially how we estimate how many overstay in a particular year.

We do that separately for people who arrived by land, sea and air, and separately for people who arrive with a temporary—like a business temporary visa or people who arrive temporarily, mostly as tourists, and we find that most of the estimated people who overstay are B-2's, or tourists.

Within the last couple of years, we have developed—we have compiled statistics from our data systems that allow us to estimate how many of these people who don't depart in a particular year either leave or adjust to a permanent status, legal status in the next few years. And so by developing estimates of how many people overstay in a particular year, and then being able to take out the next few years how many of those leave or adjust to legal status, that gives us net figures of how many people overstay. We have been doing these estimates since about 1985.

Mr. SMITH. We will come back to you with questions on that subject. Thank you.

Ms. Dillard, let me ask you a couple of questions. What are the concerns of the State Department about the validity of the INS's estimate as to the number of visa overstayers? I know that the State Department has had concerns in the past, and what are they?

Ms. DILLARD. Well, I can only speak from my personal experience which is all we can do. As a consular officer, I have seen quite a few I-94's in passports overseas. But there are so many people who do come into the country, that we cannot say with any certainty that the figures are not correct.

What we do feel is that some of the airlines are more remiss than others in collecting the I-94's, and in fact, we have a little project with Alitalia. We are trying to encourage Alitalia, together with the Italian Consulate and Government, to ensure that they take up the I-94's. Our Consul General in Rome had a meeting with Alitalia officials at which one of the officials gave him his mother's I-94 which Alitalia had failed to pick up. We know this is a problem with this airline.

Mr. SMITH. Just clarification, do individuals pick up and then return I-94 forms whether they come through the airports or land borders? Is it every visitor, or just the airports?

Ms. DILLARD. Every visitor.

Mr. SMITH. There are some countries that have a higher visa overstay rate than other countries, like Poland and Bangladesh come to mind. There are others as well. What can we do to stop the abuse by individuals who seem to be disproportionately coming from certain countries? Are there any measures that should be taken?

Ms. DILLARD. Well, we do have very high refusal rates for both of those countries that you have named.

Mr. SMITH. Should we have a stricter process? What should we be doing to correct that?

Ms. DILLARD. Well, how we judge these cases is, we look at the situation in the country, as I mentioned. For example, in Bangladesh, the employment situation is very bad. Our refusal rate there is extremely high. There are nonetheless legitimate travelers from these countries. We do use every means we can to try to catch the fraudulent traveler.

A lot of these people travel on fraudulent documents. State and INS work together to try to identify fraudulent trends——

Mr. SMITH. Do you think you should be doing a better job of that, or the INS should be doing a better job of that?

Ms. DILLARD. I think that we are doing a better job as we get more resources to do this.

Mr. SMITH. It is a question of resources and not to enable you to better screen the individuals?

Ms. DILLARD. I would say—as I pointed out, whatever the overstay rate is, it is a very small percentage of the whole—of the people who come in. We think it is about 1 percent. We don't want to have that.

Mr. SMITH. You can look at it two ways. Yes, it is a small percent. But on the real figure every year you are talking about hundreds of thousands of people who are visa overstayers, and that has an impact on the United States, regardless of whether it is a small percentage of the whole or not.

Ms. DILLARD. That is right. But we are trying to make sure that the figure is correct on the overstays. We are trying to work with these countries to get them to start——

Mr. SMITH. Let me go to Mr. Puleo. What is the most recent year that you have figures for the number of visa overstayers, allowing for your year of grace period?

Mr. WARREN. Fiscal year 1992.

Mr. SMITH. Is 1992 the last year you have?

Mr. WARREN. That is the last year for which we have made estimates.

Mr. GALLEGLY. That is 3 years.

Mr. PULEO. We haven't completed this fiscal year, so it is 2.

Mr. SMITH. You give them a year grace period before you deem them to be——

Mr. WARREN. We have to leave them a full year grace period before we make the estimate.

Mr. SMITH. How many visa overstayers do you estimate were in 1992?

Mr. WARREN. I think the number was right around——

Mr. SMITH. Go on.

Mr. WARREN. Roughly 300,000.

Mr. SMITH. Three hundred thousand.

Now what I want to do is back up. How many people overstayed their visa that year? I mean, the whole gross figure before you all worked on that figure and reduced it?

Mr. WARREN. Well, our estimate is that about 300,000 overstayed. I am not sure how many estimated—how many we estimated didn't get picked up, but we could give you that number.

[The information follows:]

For fiscal year 1992, INS estimates that the gross number of visa overstayers was 305,000.

Mr. SMITH. How many I-94 forms did you give out to non-immigrant visitors?

Mr. WARREN. I think we collected roughly 21, 22 million I-94 forms.

Mr. SMITH. You collected 21 to 22 million? And how many I-94 forms were passed out?

Mr. WARREN. The forms were passed out on the airplane, and everyone who comes before an inspector has an I-94. About 21 million.

Mr. SMITH. How many I-94 forms were given out? Not collected but given out in 1992? I know you said you—

Mr. WARREN. It would be the same number. On the airplane they are given out to people who have to present them then to the inspector when they arrived. So it is the same number.

Mr. SMITH. There are individuals—as I understand it, you pick up the form, and when you leave the country you return a stub or part of the form.

Mr. WARREN. At the airline counter, the airline personnel picks up the form.

Mr. SMITH. How many total forms were there and how many stubs were collected?

Mr. WARREN. I don't have that information in front of me. I know that there were 21 or 22 million forms collected on arrival. I am just not sure.

Mr. SMITH. That is a pretty crucial figure. I will come back to that.

Mr. WARREN. It would be a million and a half or so forms, but we can provide a closer number.

[The information follows:]



Fiscal Year 1992

A.	Total I-94 arrival forms collected .....	20,521,000
B.	In status; period of legal admission had not ended when estimates were made.....	599,000
C.	Number expected to depart.....	19,922,000
	$C = A - B$	
D.	Departure forms picked up and matched to arrival forms.....	18,244,000
E.	I-94 arrival forms not matched to departure forms.....	1,678,000
	$E = C - D$	
F.	Estimated system error (mostly due to incomplete collection of departure forms).....	1,373,000
G.	Estimated gross number of overstays.....	305,000
	$G = E - F$	

Mr. SMITH. The gentleman from Texas is recognized.

Mr. BRYANT of Texas. The gentleman's question was how many of the pieces of paper were handed out and how many were actually picked up when they arrived to the United States?

Mr. SMITH. You have a gross figure and a net figure.

Mr. PULEO. If I may, let me try to explain it. Twenty-two million are the ones that required an I-94—to execute an I-94. What Bob was saying is that approximately the difference may be about a million between those that arrive and submitted an I-94 and who handed in their departure form. And from that million he extrapolates down to 300,000 based on known indicators.

Mr. BRYANT of Texas. The 300,000 represents what?

Mr. PULEO. The amount of people who actually overstayed. Of the population of 22 million, about 300,000 overstayed their visas.

Mr. BRYANT of Texas. But of the discrepancy between arrival and departure of a million, there were——

Mr. WARREN. About a million and a half.

Mr. BRYANT of Texas. Only 300,000 represent visa overstayers?

Mr. WARREN. That is right.

Mr. BRYANT of Texas. What are the rest of them?

Mr. WARREN. They actually departed, but their forms were not picked up. And of those nonmatched arrival/departure forms, which as I say may run about a million and a half, most of those are the result of the airlines people not picking up the departure forms. We have the description of that estimation procedure.

Mr. BRYANT of Texas. So this is working with regard to 21 million arrivals and departures, minus 300,000.

Mr. WARREN. Yes, well, we estimate that roughly 300,000 overstayed in fiscal year 1992. And we know that, over subsequent years, a certain proportion of those will leave the country, and we will pick up a departure form later on. And some of them will adjust to a legal permit resident status.

Mr. BRYANT of Texas. So this is about a 2-percent—1½-percent slippage with the program?

Mr. PULEO. Yes.

Mr. BRYANT of Texas. Why don't you invest any effort in tracking down some of these folks that overstay?

Mr. PULEO. We have about 1,800 investigations personnel, with our priorities being fraud, criminal aliens and sanctions. And instead of doing an individual case, we work the overstays as part of those three priorities.

As the Jordan Commission recommended this morning and has recommended in the past and mentioned this morning, with regard to sanctions, we are improving the type of employment authorization document. I have an early mockup of one here. We are looking at reducing the number of documents from 29 to 16 documents that the employers would have to use and, hopefully, through the legislative package that we may present later this year, reduce that even further because some of the documents are stipulated in legislation.

We are also asking in our 1996 budget for 350 more investigative personnel to assist us in the employer sanctions arena and some removal money as part of our deportation request. Instead of attacking them individually, we are attacking them as part of these other programs.

Mr. BRYANT of Texas. I notice that, as you mentioned, some countries seem to have the worst record for overstays, more than others. It doesn't appear that—well, maybe it does. I was going to say it doesn't appear that it directly is related to the lack of prosperity in that country. Maybe it is. If it isn't, tell me so, but why is it that that is not a fairly solvable problem?

You have mentioned, at least in your written testimony, that people leaving Bangladesh are given a little more scrutiny than people leaving, I suppose France, because of the propensity of people leaving Bangladesh to come here and work.

Mr. PULEO. We would agree that the majority of people who overstay are here to work and are looking for work, and that is why we are trying to reduce the magnet and make it more difficult for them to gain employment here in the United States. Educating the employer on what documents they should look at and making it easier for them to identify the fraudulent documents versus properly issued documents.

We think attacking the problem that way, through a balance of education and compliance by the employer and increasing our enforcement capability through additional investigators, that we can reduce the magnet for which these people are overstaying.

Mr. BRYANT of Texas. Wouldn't it be fair to say that the problem really is with the interviewer in the beginning? If you have got a country in which a higher percentage—let me say this, if a high percentage of the overstays are economic from three or four countries repeatedly, isn't the problem in the beginning?

Ms. DILLARD. The two countries that the chairman mentioned, Bangladesh and Poland, we have over a 60-percent refusal rate in those countries. And remember that we are to gauge the person's intention at the time of that interview, and that is what we try to do.

We have a lot of students who come. That is a very hard one to gauge. We cannot presume what they will do, how they will change their mind at the end of their studies. We can only go on what we believe their intention is today. That is what the law says.

Mr. BRYANT of Texas. We have the same thing to consider in every country. I am curious to know why, if it is clear that these countries continue to have the highest percentage—

Ms. DILLARD. Those are the very same countries where we have the highest rate of refusal. We do not have a high rate of refusal in Germany or France.

Mr. BRYANT of Texas. But the fact that you have a high rate of refusal simply means that there are a whole lot of people that are wanting to come over for the wrong reasons, but you still have a high rate of folks getting by. And I am wondering if the techniques in those countries to screen them out are not adequate.

Ms. DILLARD. Well, I would say that, no matter how bad the local situation is, there are legitimate travelers. And that is part of our mandate as well, to assist the legitimate travelers to travel.

Now granted you have some countries where it is very hard to screen out all the bad applicants. We think we do a pretty good job. I know, as you say, it is a large number, 150,000; but it is a small percentage overall.

Mr. BRYANT of Texas. I will pass the witnesses over to the other Members, but I would point out from 1985 to 1992, looking at Poland here, they have repeatedly been for 8 years running here 42 percent in 1985; 40 percent in 1986; 32 percent in 1987; all the way over to 1992 where it is 16 percent. But it is still a lot higher than the other countries, most of them, anyway. So that is a lot of years in a row to keep on having them be the ones that are overstaying.

Ms. DILLARD. We have focused a lot of efforts on Poland and added staff there and changed the layout of the office. We have tried to concentrate on these areas and see what is happening. We look at these figures. We have a lot of officers who go through those posts and do their very best to gauge these cases.

And maybe we need more training. I don't know.

And this is one thing, I wonder if in your travels if you might sometimes go—sometime go to a visa section and see how it operates.

Mr. BRYANT of Texas. I have done it in Mexico City. I stood in the booth and watched them deal with a lot of people. It is difficult. I don't want to minimize the work that you have done. I am delighted that we are only here complaining about this 1.5 percent of the ones that are coming through.

But our job is oversight. And I am just curious, when you have the same country repeatedly at the top of the list, that would indicate that there is some problem there.

Thank you very much, Mr. Chairman.

Mr. SMITH. We will come back for further questions in a minute. The gentleman from California is recognized.

Mr. GALLEGLY. Thank you, Mr. Chairman.

I can't help but continue to follow up on the line of questions that Mr. Bryant and the chairman had asked.

Ms. Dillard, we have talked about this 1.5 percent. After we figure how the equation works let's say that we accept the fact that

it is 1.5 percent. Yet, according to the information that I have—and correct me if this information is not accurate—but my numbers show that Yemen, a third of all of the people that depart never return. I show that there are 14 countries that have greater than a 10-percent nonreturn rate. Bangladesh, 24, 25 percent. Are these numbers consistent with what you believe to be accurate?

Ms. DILLARD. I don't have those figures.

Mr. GALLEGLY. Maybe the question should be to Mr. Warren.

Ms. DILLARD. For example, in Yemen, we don't even issue very many visas out of Yemen, and we have over a 50-percent refusal rate.

Mr. GALLEGLY. But a third of those you approved never come back, according to your numbers. And Bangladesh, Syria, almost 20 percent. And 14 countries over 10 percent. Is that correct?

Ms. DILLARD. I don't have those figures.

Mr. GALLEGLY. Let me ask you this, during the interview process, do we do anything as simple as confirming that they have a return, paid airline ticket?

Ms. DILLARD. Yes.

Mr. GALLEGLY. In all cases?

Ms. DILLARD. What you have to do is you have to determine the ties of the person to the country.

Mr. GALLEGLY. I understand that.

Ms. DILLARD. We ask for proof of if they are going to be able to make the trip without any problem on funds, that they are going to return after the trip. Yes, we do check those things. Yes.

Mr. GALLEGLY. You do verify that they have a paid return airline ticket?

Ms. DILLARD. Yes. You know, we don't even consider that a proof.

Mr. GALLEGLY. I understand—

Ms. DILLARD. Of that half that we turn down, a lot of those have prepaid return tickets. We don't consider that necessarily proof.

Mr. GALLEGLY. I am not saying that it would be, but it is certainly an indication if they didn't have it that they didn't have a lot of intention of returning.

What is being done? What is being done in the areas where there is this excessive rate?

We have said maybe the problem isn't in Germany or France or many other places around the world. But if there are 14 countries that have in excess of 10 percent, I would say that there needs to be more focus there. And what has that focus been, if there has been a focus?

Ms. DILLARD. Well, in those countries that are in excess of 10 percent, it's hard to comment on—I don't know what those countries are. I do know that we could certainly use some more resources in all our posts.

Mr. GALLEGLY. Do we have a computerized system that the consulates in each of those countries have access to that they can check and see if an applicant has ever been guilty of overstay in the past?

Ms. DILLARD. It doesn't show overstays, but we have deportation data we have to check—we have to check their passports, which we do. We look at their passports to see their entry dates and exit



dates and such as that. On overstays we know numbers, but we don't know individuals. INS——

Mr. GALLEGLY. Do you have a computerized way? It isn't impossible to get another passport in a lot of these countries. And if they have a passport that is stamped as an overstay and they can go get another passport. Do you have a computerized method of checking to see if someone who is applying has ever been guilty of overstaying? Do you have access to that? Is that part of the verification process?

Ms. DILLARD. I do not have access to the overstay data.

Mr. GALLEGLY. It seems to me that that would be a reasonable question. I would like to know if they do have such a thing.

Ms. DILLARD. What we have in our data bank is people on whom we do have information. State and INS have the same—both our offices have the same information on security grounds, health grounds, moral grounds and such. But at this point I don't think that we have any printout on the names that we haven't gotten the I-94 back on. With more resources, maybe we could produce such a printout.

We do—one of the things we try to do is spot checking by phone to see if people have come back from their visits, but we don't have a lot of resources to do that. But we do not have a list of people who are presumed to have overstayed. That would have to come from INS.

Mr. GALLEGLY. Thank you. It seems like we have a lot of work to do.

Mr. SMITH. We are going to have more questions on this.

Ms. Dillard, before we get to the gentleman from North Carolina, why don't you have a higher refusal rate from countries that consistently and persistently seem to abuse our immigration laws?

As Mr. Bryant pointed out, you have countries that have been doing that for years. Why don't we just have a tougher screening process? Seems to me that might answer some of the questions. Which has nothing to do with personnel or training or anything else. It has to do with being tougher. Why don't we do that to the countries who continue to abuse the system?

Ms. DILLARD. Well, when you consider the number of legitimate travelers that there are bound to be in a country, 60 percent refusal rate is pretty high. I think if we are——

Mr. SMITH. It is clearly, on the face of it, not high enough if those countries' citizens consistently have a high percentage of individuals who overstay their visas.

Ms. DILLARD. It is a problem. It is also a problem that we must judge the person's intent at the time of application. Again, I think many of the people who overstay do not intend to overstay when they come.

Mr. SMITH. Well, we all know they have excuses, still, you can't deny the figures.

We will come back to that in a minute.

The gentleman from North Carolina is recognized for 5 minutes.

Mr. HEINEMAN. Thank you, Mr. Chairman.

I am a little concerned about that high level of refusal rates. And the fact we just in the Crime Subcommittee and on the floor of Congress we passed an immigrant—a more expeditious process for

exporting immigrants for committing felonies. And one of those, I believe, is dealing with documents and on visas—not only visas but identification and whatnot.

Has there been any effort to investigate or to attempt to investigate why we don't get—why we get as many immigrants that do not show up when they should show up to go back to their home country? In other words, is there some underground that is working or is there any thought to some type of an underground working in those particular nationalities that is finding homes and processes for these people to blend into this country without being caught?

Ms. DILLARD. You mean nonimmigrants who overstay their visas? There could very well be. We do have a very active program overseas. Our role is overseas.

But for trends—for example, these groups of Chinese coming in from various places, little groups in various countries around the world. We try to track those, for example. We are sure if they get in, they are taken in and, as you say, hidden away and helped to fade into the background.

We do try to track those fraudulent trends all around the world and work with INS. We work with INS on training foreign officials, on fraud trends, on fraudulent documents, with airline officials to help them help us spot the fraud that leads to this kind of thing.

Mr. HEINEMAN. Is that an active process?

Ms. DILLARD. Yes, it is.

Mr. HEINEMAN. I know in the past there has been some effort to deal with Chinese and some parts of Europe that have had a process, a black market here, where they would take in immigrants and—through fraudulent documentation and employment.

Ms. DILLARD. Yes, that is a problem that we attempt to address. Both of our agencies work together on this sort of issue.

Mr. HEINEMAN. Well, I am glad to hear that. It appears to me that when you have one or two aberrations when you are studying figures and you are studying selected populations that stand out, and that would almost indicate to me that there is a process for finding homes for those people. When I say homes, I mean false documents and jobs and whatnot.

Ms. DILLARD. We are also continuing to work on ensuring that we can keep ahead of the counterfeiters on our documents. That is one of our big aims, and that is one of the reasons that we sought the machine-readable visa fee so we would have the funds to do that.

And INS and State have a joint working group which is going to help us, we believe, in tracking down fraudulent applicants. We are trying to establish an automated data transfer of information from our posts overseas to the port of inspection. We are going to have a trial later this year, and that will give the INS inspector the entire data presented by the applicant at the visa interview. We are starting out with immigrants because that is an easier group to begin with, but we would move to nonimmigrants as we perfect the process.

Mr. HEINEMAN. As far as reaching out and touching those people that we have given temporary stays to, those people that are here

on visas, how long would it take us to change the color of a card that they would have?

Mr. PULEO. Color of the document? We are in the process of doing it now. Hopefully, the new document should be issued this year.

Mr. HEINEMAN. And how long would it take to reach out and/or to nullify the current document and put in place what you are just talking about?

Mr. PULEO. Well, most employment authorization documents are issued for 6 months to a year, so it would take no longer than a year for the entire current issued documents to expire, and we would get into the new secure document which, as you can see, has a magnetic stripe to query our data base.

Mr. SMITH. I want to go back quickly before going back to Mr. Puleo.

Just looking at some countries—here we have a situation with the Bahamas, a relatively small country, of 13,000 visa overstayers in 1992 alone. And another country—and this is the country that has the worst record as far as the trend goes—Mexico, our neighbor to the south, these are the figures of thousands of people who are nonimmigrants overstayers over the last several years in 1985 working up to 1995: 25,000, 33,000 41,000, 56,000, 63,000, 60,000, 60,000. You have gone from 25,000 to 60,000 visa overstayers from Mexico in 7 years. What is the excuse for that?

Ms. DILLARD. Well, as you will probably note—or let me tell you about the volume and the work force that we have there. Well, it is different per post. Take Mexico City, last year we issued 248,000 visas, and we denied 75,000.

Mr. SMITH. I understand that, and I appreciate that.

Ms. DILLARD. I want to describe the office to you—

Mr. SMITH. How do you explain the continued increase every single year virtually over the last 7 years to the point now where it is almost a 250-percent increase in the last 7 years as far as the number of visa overstayers?

Ms. DILLARD. We are going to have to refuse more visas, and it means that we are going to have to have more people.

Mr. SMITH. It is always a question of more people and not a question of asking more questions or screening better or asking for more documents?

Ms. DILLARD. To screen better we are going to have to have more resources. On the Bahamians, they don't get visas. Most of them come in without visas.

Mr. SMITH. When you talk about—so you are saying that this problem is one of personnel or staff, not anything in the methodology.

Ms. DILLARD. We don't have enough people to screen more thoroughly than we do now.

Mr. SMITH. How much have you asked for in your budget as far as an increase in personnel in those particular offices?

Ms. DILLARD. Well, as the Bureau, we have sought increases over the years, but at this time, our—the Department's budget request is less.

Mr. SMITH. Have you requested sufficient resources to solve the problem or not?

Ms. DILLARD. We cannot do that under our budget process. We are instructed to downsize right now. We don't really have any control over that. We have made——

Mr. SMITH. I am talking about what—have you requested what you think you need? Have you not asked for what you thought you needed?

Ms. DILLARD. Within the Department, yes we have tried to find ways to make it work without increases. That is one of the reasons we asked for 245(c) because we could free up resources to put on NIV's and on fraud, and that is what we are working on. We are going to be able to transfer some of the savings that we will make under 245(c) to these posts that need more resources.

Mr. SMITH. With regard to Mexico, have the number of individuals seeking nonimmigrant visas—have they increased 250 percent over the years?

Ms. DILLARD. Yes, they have. The number has increased.

Mr. SMITH. The number of applicants has increased that much?

Ms. DILLARD. Yes.

Mr. SMITH. That may be true. I happen to think that you all could be doing a lot better job of screening out people, particularly from those countries that you know ahead of time already are abusing their privileges.

Thank you.

Mr. Puleo, let me go back to your figure, which I am really interested in. I want to go back to the million and a half figure, the difference between the gross number of individuals who come in and the number of I-94 forms ultimately collected after a year's time and grace period.

You have a million and a half people. First of all, does that include all the visa overstayers of any kind?

Mr. PULEO. Yes.

Mr. SMITH. Does it include students?

Mr. PULEO. Students are not included in that.

Mr. SMITH. Why doesn't it include students? And how many students are there?

Mr. WARREN. The reason the students are not included is that we do the estimates about a year after people should have left. Students are admitted for a longer period of time, and in our methodology we just haven't been able to include students in that category. I think we get about 350,000 students coming in per year.

Mr. SMITH. And so you don't allow for not one of those 350,000 overstaying their visa in the 1½ million figure?

Mr. WARREN. Students are not included in these estimates.

Mr. SMITH. Does that seem like common sense to you? If there is a group that is young, footloose and fancy free, it might be students; and if they are here for a longer period of time, they might establish ties. Why is it that you don't allow for any estimate whatsoever of the 350,000 students overstaying their visas?

Mr. WARREN. We would certainly include them if we were able to with the methodology that we have. It is a limitation of the methodology.

Mr. SMITH. Seems like any methodology would be better than saying that not one of the 350,000 would overstay. You are estimat-



ing a lot of other things. Why can't you estimate it with the students?

Mr. WARREN. No, we haven't developed that procedure.

Mr. SMITH. Do you consider that to be a glaring omission or does it make your figures inaccurate as a result?

Mr. WARREN. If you were to assume that even a rate similar to the estimates that we do develop, 2- or 3-percent overstay, that would be a few thousands per year. In terms of an estimated overall undocumented population of 2 million, that would be a very small portion.

Mr. SMITH. My time is up. I am going to come back in a minute. The gentleman from Texas.

Mr. BRYANT of Texas. Once again, I want to say we are talking about 1.5 percent error here, and that is a good job, and I think you ought to be commended for working hard for this. Don't interpret our desire for perfection for lack of appreciation for what has been done.

I am curious about the figures that I have before me with regard to Mexico indicating that the number of overstays from Mexico really dwarfs everybody else. Even though the percentages are low—5 percent and 4 percent in 1992—the total is 60,000. That is huge. And I also notice that the number—while the percentage has been roughly the same, the number has increased from 25,000 in 1985 to 60,000 in 1992. Why is that happening?

Mr. PULEO. I think Bob can probably answer it more than I, but if you look at the overall percentage, it stayed the same through all those years. I think you have to look at the gross number of admissions at the same time you are looking at the gross number of overstays, so that the number goes from 25,000 to 60,000. I think you will notice that the percentage of the total admissions for those years remains constant.

Mr. BRYANT of Texas. I acknowledge that. Let's say 1992 you had 60,000. That looks like a 4-percent—60,000 represents a 4-percent overstay. If it was 5 percent, then you would have had 1,200,000 people; is that right? And 60,000 didn't leave again.

Mr. WARREN. I am sorry, what was the number?

Mr. BRYANT of Texas. If 60,000 is 5 percent, then 100 percent is 1,200,000; right?

Mr. WARREN. I am sorry. I am not very good with numbers.

Mr. BRYANT of Texas. Well, anyway, I agree that the percentage has been constant, but that is a huge number. I am not sure how to frame a question about that, but that is a significant percentage of the whole public problem. If the whole problem is 300,000, that is 20 percent of it right there.

Mr. WARREN. That is true. Mexico is the largest country of estimated overstays. That include people who come across by land and air.

Mr. BRYANT of Texas. Are those bad interviews done in the city where they ask for the visa or what?

Ms. DILLARD. Yes, the bad interview happens at the consulate, if it is a bad interview. They probably have 2 minutes max to interview people in Mexico in a not very congenial setting, as you have seen. We don't deliberately issue bad cases.

Mr. BRYANT of Texas. I know you don't. Nobody thinks that. You all you have done a good job. But maybe we could get you some tools to do a better job.

Sixty thousand coming from one country, even though the percentage is about like other places, it is still a whole lot of people. And it looks like we could figure out some way to further reduce that. That is every year.

Ms. DILLARD. I do think the only way to do that is to cut out the lure of economic opportunity. You know, we can talk about overstays and we can count the overstays better and we can bring it down to 1 percent or whatever, but as long as the jobs are there, we are going to have a problem.

Mr. BRYANT of Texas. Tell me how many you think leave on their own later.

Mr. WARREN. Out of 300,000 that we estimate don't leave in a particular year, we estimate that roughly half of those either leave or adjust to a legal status later on.

Mr. BRYANT of Texas. Within what period of time?

Mr. WARREN. Within, say, 4 or 5 years. We don't get very many departure forms from 6 or 7 years ago.

Mr. SMITH. Mr. Bryant of Tennessee is recognized.

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman.

Ms. Dillard, you just made a reference to perhaps what you think is the ultimate problem and that is the lure of economic opportunity.

Ms. DILLARD. Yes.

Mr. BRYANT of Tennessee. How do we change that? Is there something other than putting more money into existing programs? Is there something on the waterfront there that we could do in terms of new creative technology and genius think tank type things? Are there ideas out there to invoke?

Mr. PULEO. That is exactly what we are doing, Congressman.

As I said, the new document we are trying to issue this year, begin to issue this year takes advantage of the new technology using something similar to a credit card. It makes the data base available to the employer. Using a magnetic stripe, they can query our data base. And improving the technology by which we store the fingerprint photograph and signature which can only be available. So we are taking advantage of cutting-edge technology in making that available to the employer while reducing the number of documents that they have to look for. So it makes it easier for them.

Mr. BRYANT of Tennessee. Is it—in terms of employer compliance, is that a particular problem in terms of—

Mr. PULEO. Our estimate right now is that 83 percent I think is the number do, in fact, comply with the employer sanctions regulations—statute, excuse me. But it is particular industries. The industries, I am sure we are all aware of that habitually hire illegal aliens, and these are the industries that we are going to target this year in the two pilot sites, New York and Los Angeles, where we received additional resources. And then we want to expand that to the seven large States with the resources we requested in 1996.

Mr. BRYANT of Tennessee. Professor Jordan testified earlier—I think most of you were in attendance—that she felt a more effective use of the Social Security number, name, date of birth, and I

think mother's maiden name—does this concept embody those ideas?

Mr. PULEO. We are working with the Social Security Administration right now to try to get a match or even use the Social Security number instead of our alien number.

There was some testimony I think last year by the Director of our automated programs that said that there is no direct linkage since we are a name data base system and they are a Social Security number data base. So we are trying to bridge that problem by incorporating the Social Security number as part of our data base. And if we are allowed, we may use the Social Security number as our alien number and overcome that obstacle.

Mr. BRYANT of Tennessee. With the document, would that be easily forged?

Mr. PULEO. Everything is forgeable. It is according to how much money you want to put into it. If you want to spend \$100 million, you can forge this one. This would be our new green card. And we are talking similar type of moneys with this.

But we believe with a secure document and the data base behind it, is much more difficult. You, hopefully, can't forge our data base. And if you get those linkages together and available to the employer, we think we can overcome the problem of fraudulent documents.

Mr. BRYANT of Tennessee. When, in time, can we anticipate usage of these types of documents?

Mr. PULEO. I will find out Monday. Our procurement office is going to tell me how quickly we can purchase the equipment to produce these documents. At the latest, we are looking at the end of this calendar year. At the earliest, sometime in the fourth quarter of this fiscal year which is July through September.

Mr. BRYANT of Tennessee. Do I miss this concept on the workers card? Would we all have that here?

Mr. PULEO. It is only available to those nonimmigrants that we allow to work in the United States. If you are an immigrant you get the green card, which happens to be pink now and maybe some other color in the future. These are the only two documents that INS wishes to grant employment on.

We also have some legislation that we may propose to reduce the number of documents even further for both citizens and noncitizens. Some of the documents that are specified for the I-9—for the employment process are specified in statute, and we would ask to you consider reducing those.

Mr. BRYANT of Tennessee. Mr. Warren, Ms. Dillard, any other ideas about that? We don't want to miss anything in terms of ways to better do things. I know everybody that we talk to on the Hill is taxed for resources and needs more money, but if we could better use the people and the assets that we have—and I know that we are all in this together.

Ms. DILLARD. Yes, bigger fines on employers?

Mr. PULEO. Diane has mentioned the current fines that we have now on employing illegal aliens, and we have looked at that and realized that we don't have enough data to come to you and ask you to increase the fines. So we would like to continue to look at the fines that we now impose on those who hire illegal aliens to



continue a few more years to see if, in fact, it should be raised, and we could come up and ask you for that.

Mr. BRYANT of Tennessee. Let me quickly ask you, that, basically, is the only deterrence we have to employers, would be fines?

Mr. PULEO. We think both employers and a combination of law enforcement. That is why we are asking for 350 new investigative positions. And also in the President's budget there is a request for 200 Department of Labor investigators. We believe a combination of reducing the draw through the fraudulent documents and our compliance investigators would be the most expeditious way of handling those who come and try to work here illegally.

Mr. BRYANT of Tennessee. Thank you. Let me also add my commendation to all of you for the work that you do.

Mr. PULEO. Thank you very much.

Mr. SMITH. Mr. Puleo and Mr. Warren, let me go back to you, and I am looking at some fresh information that I had not seen before. But walk us through, if you will, that potential figure of a million and a half in 1992 visa overstayers and how you go from that million and a half figure to the 300,000 that you feel actually overstayed. What do you deduct to get—is it 1.5 million or more?

Mr. WARREN. It is roughly 1.5. And what we are talking about with the 1.5 million are arrival forms that are not matched with departure forms.

Mr. SMITH. Correct. Right. And how do you reduce that figure to the 300,000?

Mr. WARREN. What we do with that is, for each country we develop a rate of what we call apparent overstay. And what apparent overstay means is unmatched arrival forms. We have that number for each country, and we work out a rate of nondeparture.

Mr. SMITH. Is this just an estimate?

Mr. WARREN. No, that is based on actual numbers. We know how many should have left, so we develop a rate that we call the apparent overstay rate.

We have 12 countries of the world that we have developed where we are sure that almost no people really overstay from those countries. I don't have the list, but Australia, New Zealand—there are 12 countries where we believe that all of those rates are really error. And let's say, for example, for these 12 countries it turns out about 8 percent is the estimated error rate. Then that is the percent of all the forms that don't get picked up, basically.

And so then, for any country, if a country has the nonmatched arrivals divided by the number who should have left, if their error rate is at or below that level, then we assume that no one really overstayed.

Mr. SMITH. Even if you don't receive 8 percent of the I-94's, coming back you deem that to be—

Mr. WARREN. Assuming that level is 8 percent, that is the error rate.

Mr. SMITH. And that is based upon the 12 countries that you say have virtually no overstays.

Mr. WARREN. Right. And we had criteria for selecting those countries.

Mr. SMITH. Do you give credit to all the other countries for an 8-percent error rate?



Mr. WARREN. That is right. Any error rate up to 8 percent is considered to be a part of the error—that is, forms not picked up. If the percent of nonmatched arrival/departure forms happened to be 10 percent for a country, then 2 percent is the overstay.

Mr. SMITH. Shouldn't that differ from country to country based upon their record? Why would you give a country that has a clear record of overstay the same low error rate?

Mr. WARREN. Essentially what we say is that these 12 countries basically don't have overstayers. And what we are developing there is the estimate of error that we believe applies to all countries.

Mr. SMITH. Assume that it does, keep working back down, that accounts for 8 percent of the difference.

Mr. WARREN. Eight percent of all the people that should have departed, which is roughly 20 million people should have departed. This error rate of 2 percent that I am talking about—

Mr. SMITH. So the discrepancy between 1½ million and 300,000 is due entirely to the error rate.

Mr. WARREN. That is right, what we mostly believe to be forms not picked up.

Mr. SMITH. Do you believe that every year there are 300,000 visa overstayers in the United States and is that figure going up or down?

Mr. WARREN. Well, I use the term nonimmigrant overstays because a few people do overstay from visa waiver countries. But roughly during the last 10 years the number has been between 250,000 and 300,000 a year in terms of the number of people who overstayed in that particular year. But quite a few people do leave.

For example, with Poland, the example that was given for between 1988 and 1992, we estimated that of the Polish we had 57,000 overstayers but 60,000 left during the same period.

Mr. SMITH. That is still a relatively small percentage of people who would leave after the year, I would assume.

Mr. WARREN. Of the 300,000 that we think overstay in a year, roughly half of those will either depart or adjust to a legal status later on.

Mr. SMITH. Why would they adjust to a legal status?

Ms. DILLARD. They get jobs or get married.

Mr. PULEO. They can marry a U.S. citizen or apply for asylum. Thirty-three percent of the asylum applicants are nonimmigrants. So they can be granted asylum and then adjust, marry a U.S. citizen and then adjust.

Mr. SMITH. At least as far as that year goes, you are using a rough figure of 300,000 in that year, illegal aliens are visa overstayers; is that right?

Mr. WARREN. Our estimate of gross overstays, 300,000 in a year, yes.

Mr. SMITH. My question for Mr. Puleo is, as I understand it, the INS estimates that every year there are 400,000 illegal aliens in the United States—who come into the United States; is that correct?

Mr. PULEO. No. It is a net of 300,000 of which we are saying 150,000 are from the nonimmigrants overstay, and the other 150,000 enter without inspection.

Mr. SMITH. The last figure I saw was 400,000. It was 300,000 up to several years ago, and then the INS switched and said it was 400,000.

Mr. WARREN. The estimates that we put out estimates that, between 1988 and 1992, the estimate is 300,000.

Mr. SMITH. The 400,000 is what the GAO said—that the INS should be estimating 400,000.

Mr. WARREN. I think they talk about a limit of 4 million as far as a total population.

Mr. SMITH. So you are saying that half is due to the visa overstayers.

Mr. WARREN. I would emphasize roughly. It makes me nervous to say exactly half.

Mr. SMITH. As far as that 150,000—I guess that is allowing for individuals who may become legal or whatever, but at least in that particular year there is still 300,000 who are illegal; is that correct?

Mr. WARREN. Actually, the point I am making is about 300,000 overstay in a particular year; and during that same year about 100,000 or so who previously overstayed will adjust or leave the country.

Mr. SMITH. Of the individuals—how many of those individuals who are not criminals or have not been convicted of a crime are actually deported?

Mr. PULEO. Of the 150,000?

Mr. SMITH. Yes. I know some become criminal aliens, but I am not talking about the 10 percent that become criminal aliens. I am talking about the 90 percent who are in this country illegally who are visa overstayers. How many of those individuals are deported?

Mr. PULEO. We were looking at our statistics before. We assumed that you would ask us this question. And we looked at—the latest data was in 1993. Of the 38,000 individuals we deported, approximately half of those were criminal aliens. Unfortunately, some of those criminal aliens were nonimmigrant overstays. But the way we collect statistics we call them criminal aliens. So the non-immigrant number for the 38,000 was very small.

Mr. SMITH. How small was it?

Mr. PULEO. It was less than a thousand. If you look at the first two categories, over half of them were criminal aliens.

Mr. SMITH. I am excluding the criminal aliens.

Mr. PULEO. You have to include criminal aliens because part of the criminal aliens were nonimmigrant overstays.

Mr. SMITH. I am talking about individuals in this country that had not been convicted of a crime, and you said less than a thousand.

Mr. PULEO. I said our statistics do not show pure nonimmigrant overstays because some of our criminal aliens are also non-immigrant overstays.

Mr. SMITH. What was your less than a thousand figure? What did that refer to?

Mr. PULEO. The only reason they were deported was for non-immigrant overstays. They had no other reason to be deported.

Mr. SMITH. What was that figure exactly?

Mr. PULEO. We will have to look it up.

Mr. WARREN. Six hundred and fifty-eight.

Mr. SMITH. So if the figure I have heard is correct, that 10 percent of the visa overstayers are criminal aliens, and you deduct 10 percent from 150,000, that is 15,000 of the 135,000 people who are visa overstayers every year, you are deporting 658 or roughly thereabouts—less than 1 percent.

Mr. PULEO. But you have to look at the overall—

Mr. SMITH. I know we could go back and forth on that.

My point is the same point that Barbara Jordan made, which is that deportation has to be part of your policy if you are going to have—

Mr. PULEO. Don't forget voluntary return. There are those who return voluntarily. Of the 1.1 million or 1.2 million people who were expelled from the United States, 38,000 were deportations. The rest were voluntary returns. There are a number of those who will voluntarily return because there is a benefit not to be deported.

Mr. SMITH. You have answered my question—658 out of 135,000. I don't know if that is a lack of will or a lack of personnel or maybe a combination of both. That is an awfully low figure.

It sounds to me that the message we are giving out is, if you overstay, you are here to stay if you don't commit a crime. That, to me, is not a legitimate message to be giving to foreign visitors whether they are tourists or here for business reasons or whatever else.

My next question is, at one time—and you will know better than I—there were a number of local and State public entities, law enforcement entities, who were not cooperating with the INS in the apprehension of illegal aliens. Is this still the case? If so, what do we need to do to compel these individuals or organizations to cooperate? Or is this not still the case?

Mr. PULEO. It is less of a problem now with local law enforcement assisting INS. It was a problem in some States. San Francisco, for example, was a problem before and so was Chicago. That has now diminished, and there is direct working relationships with law enforcement.

One problem we are having is based on, I believe, section 507 of the Immigration Act of 1990. States were required to notify and present records of conviction to us. If they did not, they would not receive benefits from the Office of Justice Programs. Some States are not providing that information to us. They see that the number of convictions that are aliens in their States are so low that they don't wish to receive the benefit of the dollars.

Mr. SMITH. Let me ask you this. Are there any municipalities or law enforcement organizations in the top six or seven immigration States who have voted or otherwise given you reason to believe that they are not going to cooperate with the INS in identifying illegal aliens?

Mr. PULEO. I am not aware of any right now. No.

Mr. SMITH. No city council has voted or passed a regulation?

Mr. PULEO. The only one I know is Tacoma Park, MD. San Francisco was one and so was Chicago. But that has since passed. That is no longer the case.



Mr. SMITH. My time is up. Let me see if any of the other Members here have further questions. And, if not, I am going to go back to the next time.

Mr. Bryant or Mr. Heineman. Then let me keep going then, if I may.

I think it is in your testimony where you talk about a telephone verification system, and you mentioned this in response to a question a while ago as well. Do you agree with the Commission that we are going to have to have some form of verification system if we are going to end discrimination at the workplace and assure that illegal aliens do not wrongfully or are not wrongfully given jobs and Federal benefits?

Mr. PULEO. Absolutely. As I was describing to Mr. Bryant before, one of the ways that we have of combating those who would attempt to produce fraudulent employment authorization documents is the data base that supports it. And I agree with that.

Mr. SMITH. How can that be implemented and what is the cost estimate on that?

By the way, I realize the cost estimate is one thing if you say today we are changing everything, and it is something else if you say that everybody from now who applies for this card or turns 18 is issued a tamper-proof card. But give me the range of cost and tell me how you would recommend implementing the system.

Mr. PULEO. It is somewhere around \$2.5 million. And we are going to request reprogramming in our exams fee account to fund the changeover to this new document. I don't know the exact number because I don't know the equipment we are going to purchase and what the cost of it is. I am giving you the estimate of one piece of equipment and the data entry contract expansion that we need at our service centers. It is about \$2.5 million.

Mr. SMITH. Do you have—what about the criticism that it is an infringement or invasion of privacy? How can that be averted?

Mr. PULEO. Well, these are nonimmigrants who are here in the United States who are requesting work authorization. To get work authorization they have to be granted by the INS and given this document. And it is part of the verification process. It comes after the person is granted employment. It doesn't come before. And we have to make that distinction.

So it is someone who has been granted employment. The employer is now filling out the I-9 form, the employment document, and they will be able to verify the authenticity of the document they are carrying by querying our data base. I don't believe it will be an infringement on their privacy.

Mr. SMITH. What I was going to was the larger question of a verification system that would be used for anyone who is entitled to a Social Security card today and having them use a Social Security card in effect as a work permit card. They would have to show it when they first show up to work, but they don't have to carry it around like an ID card in Europe. Which is a distinction between a verification system and a national ID card like in so many other countries. That is what my questions were really going to.

Mr. PULEO. I narrowly answered it because these are the only two documents that we issue. We are not involved in issuing any



documents for citizens. We only issue them for permanent residents or nonimmigrants.

Mr. SMITH. I am talking about what the Commission recommended, and you are familiar with that.

Mr. PULEO. And we asked for in the President's budget this year—there are moneys requested to test that feasibility of linking up our data bases and having pilots on the verification system.

Mr. SMITH. I think all we are talking about in the verification system is you say linking up Social Security Administration and INS.

There are two other questions that come to mind with regard to that, and one is that no matter how good your data is, you still have the problem of the fraudulent breeder documents, documents that are used to obtain a Social Security card like a birth certificate. How do we ensure that only those who are entitled to the jobs and benefits receive them?

Mr. PULEO. That is an excellent question. It is near and dear to my heart. It not only deals with employment but also benefits under the Immigration Act.

The birth certificate is a major breeder document for us. I think there are 2,000 entities in the United States that issue various types of birth certificates, and none of them are the same. None of them have the same security features, and it is very difficult for us who are familiar with documents to try to intercept the fraudulent documents versus the good ones.

I mean, I could give you an idea that maybe we could tell every State or direct every State to use a standard document. It is something that we may want to look at as an option, if we could standardize the issuance of birth certificates in the United States or maybe standardize the document that is issued itself.

Mr. SMITH. That is going to need to be a part of solution ultimately, one way or the other.

Mr. PULEO. Absolutely.

Mr. SMITH. I am intrigued by something that I have heard that I believe is a verification system that might even exist without a tangible card, and that is just a telephone verification system. How would that work? And is that as good as a tamper-proof card?

Mr. PULEO. Well, we have it now with nine employers, a telephone verification system. And this year we are expanding it to 200, most of it in Los Angeles, to deal with the pilot.

We are going to have one city, Los Angeles, with additional sanctions, officers and criminal investigators and an expansion of the telephone verification system. New York will not. So we will be able to see the difference between having a verification system or not.

Mr. SMITH. How would that work?

Mr. PULEO. It is simply these 200 employers would be able to phone in into our data base and query it, asking a person do you have any data on this? It would be similar to the card we have now. Instead of striping it you would simply call into a phone number. This one you would query it by running it through the reader.

Mr. SMITH. When will we have the results of some of these pilot programs around the country?

Mr. PULEO. We should have some results next fiscal year. Unfortunately, the moneys for our criminal investigators are late in the year. They won't even be on board this fiscal year. They will have to go through 15 weeks of training. They will not be on board until 1996.

Mr. SMITH. Let me go to another quick subject and that is the problem of border crossing cards that are used for individuals from Mexico and Canada. The Jordan Commission report uses the words "widespread misuse of border crossing cards." Would you address that problem and explain how we might correct it?

Mr. PULEO. I don't know if it is a misuse. What she mentioned this morning was that there was a problem in El Paso where people were crossing illegally.

Mr. SMITH. The word "misuse" is not my word. That is the Commission's word.

Mr. PULEO. They were crossing illegally, even though they had border crossing cards.

As a second phase of the improvement of our documents, once we have improved the employment authorization document, to go on and look at the two other documents—the green card, the I-551; and the border crossing card. The number is I-586. We are looking to improve the fraudulent tamper—make it more tamper resistant and also to include increased data on the back.

The document we are looking at is this one here, has a CD capability on the back which can contain up to 2 million bytes of memory. We can embed security features in there that would make it more fraud resistant.

Mr. SMITH. This is the quote that I was looking for: "The Commission is troubled by evidence of substantial misuse of border crossing cards. In 1993, 24,000 plus cards were intercepted after issuance for counterfeiting, alteration or use by imposters in violation of the conditions of usage."

Is what you just described a possible way to avert that? It seems like this is a whole other problem.

Mr. PULEO. Except for the misuse; remember the use of the border crossing card is restricted to 25 miles from the border and 72 hours duration of stay in the United States. But we think that the document that we are looking at will certainly assist us. It is more tamper proof so you will not get photo substitution. The fact that we can embed the data in the card will get us away from imposters.

Misuse is something that we will have to look at better, interior enforcement.

Mr. SMITH. Going back once more to the problems of visa overstayers and collecting the I-94 forms from the airlines, if that is really a problem should we be relying entirely on the airlines to collect the forms? Should the Government get involved? Should we be putting more pressure on the airlines? What is the answer to that? What is the best solution?

Mr. PULEO. Well, if you are looking to install an outbound control, as some countries have, you would have to duplicate the number of inspectors we have now. We have 3,600 inspectors. We are understaffed by a thousand on the southern border.

Mr. SMITH. Could we put some kind of pressure on the airlines to cooperate and have some kind of sanction if they don't?

Mr. PULEO. We already have fines that we impose on them. But we think there is a better solution, and that is what we are working on with airlines right now, on electronic transfer of the information. The airlines are interested because it would assist them in eliminating the I-94 so that they can produce it electronically. We are interested because they can transfer the information to us immediately so we don't have a lag of data entry. And, also, as the alien departs, they can transmit the manifest electronically to us, so it would clear our nonimmigrant overstays immediately, and we will be able to know exactly what the overstay rate is.

Mr. SMITH. That is an improvement. I have read about it.

You mentioned the fines. What was the dollar value of the fines impose on the airlines last year?

Mr. PULEO. I remember the year before. I apologize. Last year there was \$21 million in fines levied against airlines.

Mr. SMITH. How does that work?

Mr. PULEO. If someone shows up at a port of entry with no documentation, fraudulent documentation, or they don't retrieve the I-94, there are various levels of fines we impose. I don't remember what they are. They vary from \$500 to \$3,000.

Mr. SMITH. Was \$21 million collected from airlines? Not just on paper fines but they were actually collected from airlines?

Mr. PULEO. Absolutely. That goes back into the user fees that we use to fund our program.

Mr. SMITH. Any other questions?

Thank you all for being with us. Appreciate your patience. The meeting is adjourned.

[Whereupon, at 12:14 p.m., subcommittee was adjourned.]



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